



## **Board of Trustees - Study Session**

**Tuesday, August 9, 2022 at 5:45 pm**

**PLEASE SILENCE ALL CELL PHONE AND ELECTRONIC DEVICES.  
THANK YOU**

### **1. Meeting Information**

207 Muegge Way, Bennett, CO 80102

For a live stream of the meeting use the information below:

<https://us02web.zoom.us/j/82969043900>

Meeting ID: 829 6904 3900

Passcode: 166365

One tap mobile

+13462487799

### **2. Arapahoe County Sheriff's Second Quarter Report 2022**

Keith Kirkpatrick, District 8 Area Liaison

#### **Attachments:**

- **Arapahoe County Sheriff's Second Quarter Report 2022** (Bennett\_Stats\_2nd\_Quarter\_2022\_Final.pdf)

### **3. Adams County Sheriff's Second Quarter Report 2022**

Karl Smalley, Adams County Commander, District 5

#### **Attachments:**

- **Adams County Sheriff's Second Quarter Report 2022** (Bennett\_Q2\_2022\_Report\_-\_Printable.pdf)

### **4. Municipal Court Department Update**

Christina Hart, Municipal Court Clerk

**Attachments:**

- **Municipal Court Department Update** (2nd\_Q\_2022\_Court\_Update\_\_1\_\_-clean.pdf)

**5. Community Services Department Update**

Keith Buono, Lead Community Service Officer

**Attachments:**

- **Community Services Department Update** (August\_\_progress\_report.pdf)
- **Quarterly Case Report** (2ndQuarterCaseReport.pdf)

**6. Recommended Changes to the Bennett Municipal Code - Chapter 7 and Chapter 9**

Taeler Houlberg, Administrative Services Director

Keith Buono, Lead Community Service Officer

Ordinance No. 755-22 - An Ordinance Amending Chapter 7 of the Bennett Municipal Code Regarding Health and Sanitation

Ordinance No. 756-22 - An Ordinance Adopting a New Chapter 9 of the Bennett Municipal Code Concerning Animal Control

**Attachments:**

- **Staff Report Recommended Changes to the Bennett Municipal Code - Chapter 7 and Chapter 9** (0\_-\_TownofBennett\_Staff\_Report\_Ch.7\_9.pdf)
- **PowerPoint Presentation Recommended Changes to the Bennett Municipal Code - Chapter 7 and Chapter 9** (1\_-\_Chapter7\_9\_update.pdf)
- **Ordinance No. 755-22 - An Ordinance Amending Chapter 7 of the Bennett Municipal Code Regarding Health and Sanitation** (2\_-\_Ordinance\_No.\_755-22\_-\_Draft\_BMC\_Chpt\_7\_Health\_and\_Sanitation\_Ordinance\_\_1\_.pdf)
- **Chapter 7 Strikethrough Reference Document** (3\_-\_chap7updates\_strikethrough\_updated\_\_redline\_.pdf)
- **Ordinance No. 756-22 - An Ordinance Adopting a New Chapter 9 of the Bennett Municipal Code Concerning Animal Control** (4\_-\_Ordinance\_No.\_756-22\_-\_Draft\_Chapter\_9\_Animal.ord\_updated.pdf)
- **Chapter 9 Strikethrough Reference Document** (5\_-\_Chap9Animals\_\_redline\_.pdf)



**ARAPAHOE COUNTY**  
COLORADO'S FIRST



**Arapahoe County Sheriff's Office**  
**Town of Bennett**  
**Second Quarter Calls for Service**  
**April-June 2022**



**Total calls for 2<sup>nd</sup> Quarter, 2022: 35 Per call type:**

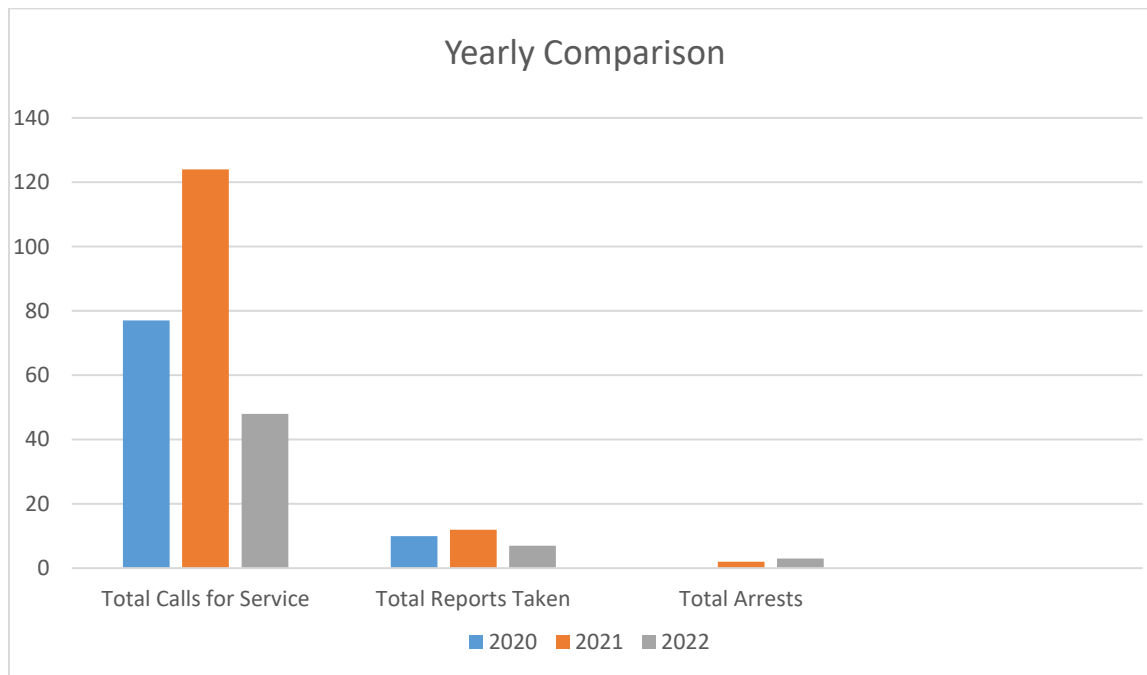
| <u><b>TOTAL</b></u> | <u><b>TYPE</b></u>     | <u><b>Relevant Info</b></u> |
|---------------------|------------------------|-----------------------------|
| 5                   | Citizen Assist         | No Report                   |
| 3                   | Medical Assist         | No Report                   |
| 3                   | Assist to Other Agency | No Report                   |
| 2                   | Keep the Peace         | No Report                   |
| 6                   | Civil Service          | No Report                   |
| 1                   | Juvenile Complaint     | No Report                   |
| 2                   | Traffic Complaint      | No Report                   |
| 1                   | Loud Noise Complaint   | No Report                   |
| 3                   | Suspicious Vehicle     | No Report                   |
| 2                   | Welfare Check          | No Report                   |
| 1                   | Residential Alarm      | No Report                   |
| 1                   | Fire Alarm             | No Report                   |
| 1                   | Menacing (Aggravated)  | Report                      |
| 1                   | Arson                  | Report                      |
| 1                   | DUI                    | Report                      |
| 1                   | Mental Health          | Report                      |
| 1                   | Fraud                  | Report                      |

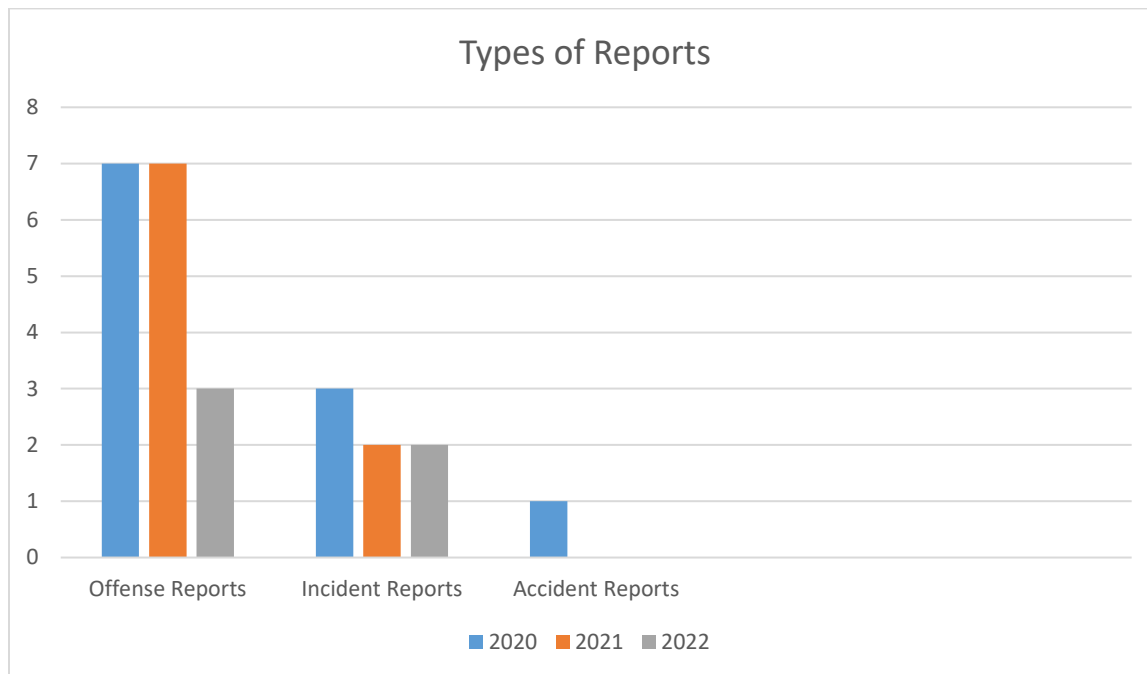
**Total Reports Taken: 5**

| Date         | CR #       | Location            | Case Type     | Disposition     | Status           |
|--------------|------------|---------------------|---------------|-----------------|------------------|
| May 2, 2022  | AC22-7803  | 1180 Antelope Dr W  | Agg. Menacing | Offense Report  | Closed w/ Arrest |
| May 8, 2022  | AC22-8154  | 1155 Antelope Dr W  | Arson         | Offense Report  | Closed w/ Arrest |
| May 9, 2022  | AC22-8265  | 996 S Pinehurst Ct  | Mental Health | Incident Report | N/A              |
| May 16 2022  | AC22-8695  | 600 Antelope Dr W   | DUI           | Offense Report  | Closed w/ Arrest |
| June 7, 2022 | AC22-10166 | 49275 Antelope Dr W | Fraud         | Incident Report | N/A              |

**Pattern Crime:** None

**Recent Issues:** Working with local Fire/Rescue Departments on upgrading radios. Increasing active threat response training. Working with ADCOM to have access to radio channels, which will benefit communications during critical incidents, to include in and around the Town of Bennett.





Prepared by: Lieutenant Keith Kirkpatrick 10055

Date: July 28, 2022



# BENNETT 2022 Q2 REPORT

PREPARED BY CRIME ANALYST K. BORTH

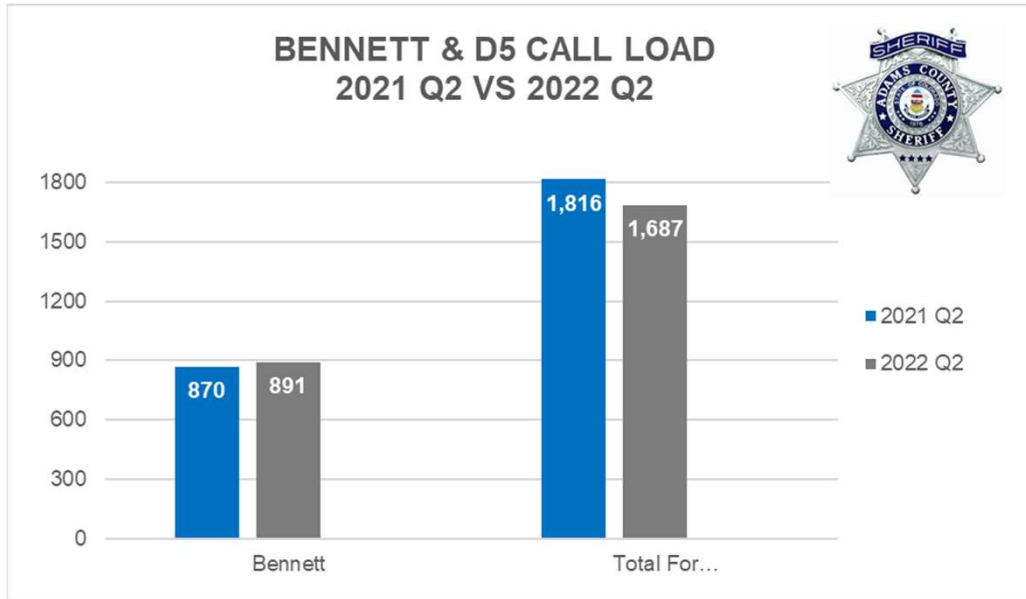


# CALLS FOR SERVICE

| CFS COMPARISON 2021 Q2 VS 2022 Q2 |         |                      |
|-----------------------------------|---------|----------------------|
|                                   | Bennett | Total For District 5 |
| 2021 Q2                           | 870     | 1,816                |
| 2022 Q2                           | 891     | 1,687                |
| % Δ                               | ↑ 2%    | ↓ 7%                 |

Bennett CFS made up 48% of all CFS for D5

Bennett CFS made up 53% of all CFS for D5

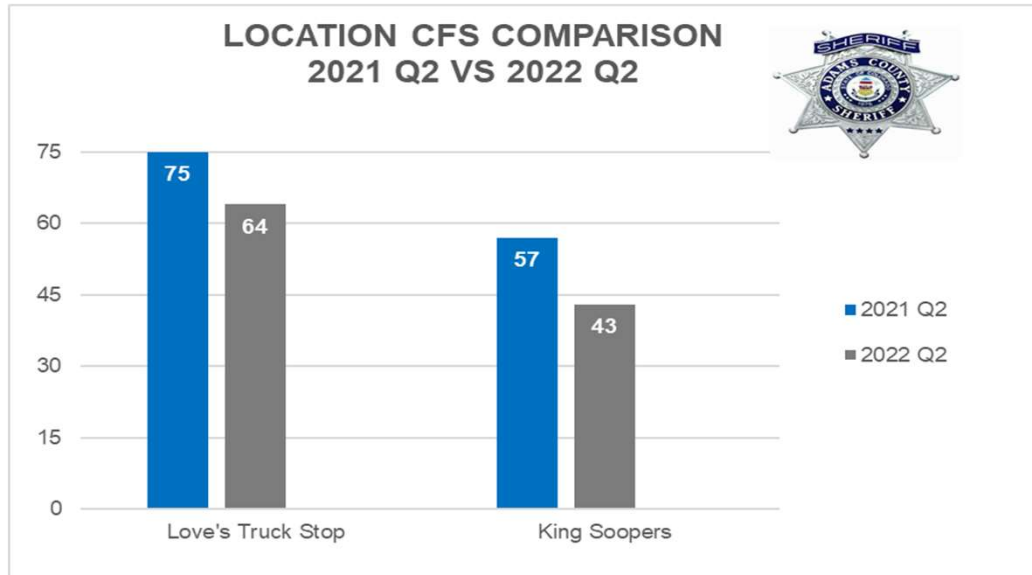


| 2022 Q2 TOP CALLS FOR SERVICE IN BENNETT          |       |
|---|-------|
| Call Type   | Count |
| Traffic Stop                                      | 157   |
| Suspicious Activity                               | 95    |
| Check Well Being                                  | 63    |
| Medical Call                                      | 61    |
| Traffic Complaint                                 | 30    |
| Parking Violation                                 | 29    |
| Disturbance                                       | 27    |
| Property Damage Accident                          | 23    |
| Civil Matter                                      | 22    |
| Theft   | 21    |
| Administrative calls are ommitted from this list. |       |



# CALLS FOR SERVICE

| CFS COMPARISON 2021 Q2 vs 2022 Q2                |                   |              |
|--|-------------------|--------------|
|  | Love's Truck Stop | King Soopers |
| <b>2021 Q2</b>                                   | 75                | 57           |
| <b>2022 Q2</b>                                   | 64                | 43           |
| <b>% Δ</b>                                       | ↓ 15%             | ↓ 26%        |
| <i>Includes administrative calls for service</i> |                   |              |



| 2022 Q2 CALLS FOR SERVICE AT LOVE'S TRUCK TOP    |       |
|--|-------|
| Call Type  | Count |
| Check Well Being / Child Issue                   | 14    |
| Suspicious Activity / Unknown Problem            | 12    |
| Property Damage Accident                         | 7     |
| Traffic  | 6     |
| Theft / Shoplift                                 | 5     |
| Disturbance / Harassment                         | 5     |
| Message / Information                            | 4     |
| Cover / Assist                                   | 4     |
| Fraud / Forgery                                  | 1     |
| Vehicle Inspection                               | 1     |
| Civil Matter                                     | 1     |
| Attempt to Contact                               | 1     |
| Miscellaneous Call                               | 1     |
| <i>Includes administrative calls for service</i> |       |





## CASE REPORTS

| BENNETT CASES ASSIGNED TO<br>DETECTIVE DIVISION IN 2022 |                           |                       |
|---|---------------------------|-----------------------|
|   | Assigned to<br>Detectives | Total Case<br>Numbers |
| Q1  | 46                        | 80                    |
| Q2  | 46                        | 118                   |
| Total   | 92                        | 198                   |

*Detective Division was assigned 57% of total cases*

*Detective Division was assigned 39% of total cases*

*Detective Division was assigned 46% of total cases*

*Please note that case number total will be different, and is a completely separate statistical count, from the crime number total. This table represents the case number total.*



# CRIME

## BENNETT 2022 Q2 CRIMES

| PERSONS   | Q2        | YTD       |
|---|-----------|-----------|
| Assault/Child Abuse   | 5         | 12        |
| Harrassment/ Intimidation                                     | 10        | 12        |
| Kidnapping/Abduction/False Imprisonment/<br>Domestic Violence | 9         | 12        |
| Sex Offenses (All)/ Indecent Exposure)                        | 1         | 1         |
| <b>Total</b>  | <b>25</b> | <b>37</b> |

| PROPERTY   | Q2        | YTD       |
|--|-----------|-----------|
| Arson  | 1         | 1         |
| Burglary/Breaking & Entering                         | 4         | 10        |
| Counterfeiting/ Forgery                              | 1         | 1         |
| Destruction/Damage/ Vandalism / Criminal<br>Mischief | 10        | 19        |
| Fraud/ Identity Theft/ False Reporting               | 6         | 12        |
| Larceny/ Theft                                       | 27        | 44        |
| Motor Vehicle Theft                                  | 5         | 9         |
| Recovered Motor Vehicle Theft                        | 3         | 3         |
| Robbery  | 0         | 0         |
| <b>Total</b>   | <b>57</b> | <b>99</b> |

| OTHER CRIMES  | Q2        | YTD       |
|---|-----------|-----------|
| Animal Cruelty/ Vicious Dog   | 0         | 0         |
| Disorderly Conduct/Curfew/ Resisting/Obstruction<br>Violations/ Tampering | 8         | 11        |
| Driving Under the Influence/Traffic Offenses                              | 19        | 24        |
| Drug/Narcotic/Paraphernalia   | 3         | 12        |
| Liquor Law Violations   | 2         | 3         |
| Protection Order Violation/ Bail Bond Violation                           | 4         | 5         |
| Trespass of Real Property   | 10        | 14        |
| Warrant Arrests   | 3         | 4         |
| Weapon Law Violations/ Menacing   | 2         | 5         |
| <b>Total</b>  | <b>51</b> | <b>78</b> |

| NON-CRIMINAL       | Q2         | YTD        |
|--------------------|------------|------------|
| Non-Criminal       | 35         | 61         |
| <b>Grand Total</b> | <b>168</b> | <b>275</b> |

Please note that case number total will be different, and is a completely separate statistical count, from the crime number total. This table represents the crime number.



# CRIME

## BENNETT 2022 Q1 VS 2021 Q2 & YTD CRIME COMPARISONS

| PERSONS  | 2021 Q2   | %D           | 2022 Q2   | 2021 YTD  | %D          | 2022 YTD  |
|--|-----------|--------------|-----------|-----------|-------------|-----------|
| Assault/Child Abuse  | 6         | ↓17%         | 5         | 12        | ↔           | 12        |
| Harrassment/ Intimidation                                  | 1         | ↑900%        | 10        | 6         | ↑100%       | 12        |
| Kidnapping/Abduction/False Imprisonment/ Domestic Violence | 2         | ↑350%        | 9         | 6         | ↑100%       | 12        |
| Sex Offenses (All)/ Indecent Exposure                      | 3         | ↓67%         | 1         | 5         | ↓80%        | 1         |
| <b>Total</b>   | <b>12</b> | <b>↑108%</b> | <b>25</b> | <b>29</b> | <b>↑28%</b> | <b>37</b> |

| PROPERTY  | 2021 Q2   | %D          | 2022 Q2   | 2021 YTD  | %D          | 2022 YTD  |
|---|-----------|-------------|-----------|-----------|-------------|-----------|
| Arson   | 0         | ↑∞%         | 1         | 0         | ↑100%       | 1         |
| Burglary/Breaking & Enterings                     | 1         | ↑300%       | 4         | 3         | ↑233%       | 10        |
| Counterfeiting/ Forgery                           | 2         | ↓50%        | 1         | 3         | ↓67%        | 1         |
| Destruction/Damage/ Vandalism / Criminal Mischief | 5         | ↑100%       | 10        | 12        | ↑58%        | 19        |
| Fraud/ Identity Theft                             | 5         | ↑20%        | 6         | 26        | ↓54%        | 12        |
| Larceny/ Theft                                    | 13        | ↑108%       | 27        | 30        | ↑47%        | 44        |
| Motor Vehicle Theft                               | 3         | ↑67%        | 5         | 8         | ↑13%        | 9         |
| Recovered Motor Vehicle Theft                     | 5         | ↓40%        | 3         | 7         | ↓57%        | 3         |
| Robbery   | 0         | ↔           | 0         | 0         | ↔           | 0         |
| <b>Total</b>                                      | <b>34</b> | <b>↑68%</b> | <b>57</b> | <b>89</b> | <b>↑11%</b> | <b>99</b> |

| OTHER CRIMES   | 2021 Q2   | %D          | 2022 Q2   | 2021 YTD  | %D         | 2022 YTD  |
|--|-----------|-------------|-----------|-----------|------------|-----------|
| Animal Cruelty   | 1         | ↓100%       | 0         | 3         | ↓100%      | 0         |
| Disorderly Conduct/Curfew/ Resisting/Obstruction Violations/ Tampering | 5         | ↑60%        | 8         | 10        | ↑10%       | 11        |
| Driving Under the Influence/Traffic                                    | 17        | ↑12%        | 19        | 39        | ↓38%       | 24        |
| Drug/Narcotic/Paraphernalia  | 4         | ↓25%        | 3         | 9         | ↑33%       | 12        |
| Liquor Law Violations  | 0         | ↑∞%         | 2         | 0         | ↑∞%        | 3         |
| Protection Order Violation/ Bail Bond Violation                        | 2         | ↑100%       | 4         | 4         | ↑25%       | 5         |
| Trespass of Real Property  | 3         | ↑233%       | 10        | 6         | ↑133%      | 14        |
| Warrant Arrests  | 5         | ↓40%        | 3         | 7         | ↓43%       | 4         |
| Weapon Law Violations/ Menacing  | 4         | ↓50%        | 2         | 6         | ↓17%       | 5         |
| <b>Total</b>   | <b>41</b> | <b>↑24%</b> | <b>51</b> | <b>84</b> | <b>↓7%</b> | <b>78</b> |

| NON-CRIMINAL       | 2021 Q2    | %D          | 2022 Q2    | 2021 YTD   | %D          | 2022 YTD   |
|--------------------|------------|-------------|------------|------------|-------------|------------|
| Non-Criminal       | 30         | ↑17%        | 35         | 49         | ↑24%        | 61         |
| <b>Grand Total</b> | <b>117</b> | <b>↑44%</b> | <b>168</b> | <b>251</b> | <b>↑10%</b> | <b>275</b> |

Please note that case number total will be different, and is a completely separate statistical count, from the crime number total. This table represents the crime number.

# DEPARTMENT PROGRESS REPORT



TO: Mayor and Town of Bennett Board of Trustees  
FROM: Christina Hart, Municipal Court Clerk  
DATE: August 9, 2022  
SUBJECT: Municipal Court Department Update

## Management Summary

The Bennett Municipal Court received a total of 65 citations from May 1, 2022, to August 3, 2022. The next Bennett Municipal Court hearings are scheduled for August 24, 2022. Four parking citations on Marketplace Drive were issued during the second quarter of 2022.

The table below shows the citation comparison between the second quarters of 2020, 2021 and 2022, as well as the revenue received. The citations are designated by county.

| Total Citations – Adams County    | Revenue |
|-----------------------------------|---------|
| Q2 2020 – 8 citations             | \$1,125 |
| Q2 2021 – 36 citations            | \$1,339 |
| Q2 2022 – 65 citations            | \$3,210 |
| Total Citations – Arapahoe County | Revenue |
| Q2 2020 – 0 citations             | \$0     |
| Q2 2021 – 0 citations             | \$0     |
| Q2 2022 – 0 citations             | \$0     |

## Projects Status & Milestones

During the May 10, 2022 study session, Court staff presented the virtual courtroom attendance option. If a defendant lives more than 50 miles from Bennett or has a medical concern making it difficult to attend their scheduled hearing, they can attend court virtually. In order to do this, the defendant would be required to contact the court and provide a copy of their ID, contact information, a copy of (or information regarding) the citation and a statement requesting to either plead guilty or no contest to their case. The judge will review the request and sign an order if the request for a virtual appearance is approved. If a virtual hearing is warranted, the defendant will be provided a Zoom link with the date and time of their arraignment. In the event the defendant does not appear during their scheduled Zoom arraignment, they would be classified as “failed to appear”.

Court staff has worked with the Communications and IT Department to update the Town’s website with the virtual court policies and procedures, which are now available online.

To date the Court has received and approved one virtual court appearance. The experience was positive for the defendant and staff.

# DEPARTMENT PROGRESS REPORT



TO: Mayor and Town of Bennett Board of Trustees  
FROM: Keith Buono, Lead Community Service Officer  
DATE: August 9, 2022  
SUBJECT: Community Services Department Update

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## Management Summary

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In June 2022, Mrs. Sonya Zimmerman was hired to fill the Community Service Officer (CSO) vacancy that had been open since April of this year. Mrs. Zimmerman has previous experience with animal control duties when she worked for Parker, Colorado as an Animal Control Officer.

Starting July 24, 2022 Community Service Officers began eight (8) hour shifts. This will provide seven (7) day coverage for the town, provide two officers on shift Tuesday through Thursday, create flexible training opportunities, and provide greater flexibility for meeting attendance.

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## Projects Status & Milestones

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In line with the Board's vision statement, keeping our community clean and being proactive is a priority for the division. Our Business Windshield Surveys were completed on April 26, 2022. Staff have followed up with the noted discrepancies and have achieved compliance from all but four businesses. The outstanding businesses are currently working with staff to mitigate the issues.

Animal Licensing is on track for this year and should exceed expectations for animal registration metrics. The number of chicken permits has already more than doubled last year's total figures.

As of June 30, 2022 there are 88 code cases closed, 35 currently under investigation, for a total of 123 cases since January 1<sup>st</sup>. During the second quarter 42 cases were opened and 46 cases were closed.

Since January 1<sup>st</sup> the Town has received 20 REVIVE Grant requests with 18 approvals and two (2) pending. Currently there is \$13,363.60 remaining in the grant account.

Officer Keith Buono and Sonya Zimmerman attended an online course for proper snake handling.

Finally, the division collaborated with Mr. Steve King, Mrs. Gerilynn Scheidt, Adams County Sheriff and Arapahoe County Sheriff for the Community Night Out event August 2, 2022. The event was a great successes and Officer Buono was dunked seventeen times.

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## Attachments

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1. Quarterly Case Report

# STAFF REPORT



welcome neighbors.

TO: Mayor and Town of Bennett Board of Trustees  
FROM: Keith Buono, Lead Community Service Officer  
DATE: August 9, 2022  
SUBJECT: Community Services Second Quarter Update

|                                      | I<br>Second Quarter<br>Cases Opened | II<br>Second Quarter<br>Cases Closed | III<br>Year to Date<br>Cases Opened | IV<br>Year to Date<br>Cases Closed | V<br>Year to Date<br>Compliance % |
|--------------------------------------|-------------------------------------|--------------------------------------|-------------------------------------|------------------------------------|-----------------------------------|
| <b>Animal Cases</b>                  | 18                                  | 17                                   | 41                                  | 26                                 | 63%                               |
| <b>Code Cases</b>                    |                                     |                                      |                                     |                                    |                                   |
| Refuse                               | 0                                   | 2                                    | 2                                   | 2                                  |                                   |
| Abandoned Vehicles                   | 2                                   | 5                                    | 11                                  | 11                                 |                                   |
| Duty of Property Owner to Cut        | 7                                   | 1                                    | 21                                  | 14                                 |                                   |
| Permit Required                      | 0                                   | 0                                    | 1                                   | 1                                  |                                   |
| Accumulation Prohibited              | 3                                   | 3                                    | 11                                  | 3                                  |                                   |
| Streets, Sidewalks & Public Property | 1                                   | 0                                    | 2                                   | 0                                  |                                   |
| Nuisance                             | 0                                   | 0                                    | 0                                   | 0                                  |                                   |
| Trees                                | 1                                   | 0                                    | 1                                   | 1                                  |                                   |
| Parking, Storage & Use               | 10                                  | 18                                   | 33                                  | 30                                 |                                   |
| Canceled Cases                       | 0                                   | 0                                    | 0                                   | 8                                  |                                   |
| <b>Totals</b>                        | <b>42</b>                           | <b>46</b>                            | <b>123</b>                          | <b>88</b>                          | <b>71%</b>                        |

- I Cases that were opened during the second quarter
- II Cases that were closed during the second quarter
- III Cases that were opened since the first of the year
- IV Cases that were closed since the first of the year
- V Compliance percentage year to end of current quarter

# STAFF REPORT



welcome neighbors.

TO: Mayor and Town of Bennett Board of Trustees  
FROM: Taeler Houlberg, Administrative Services Director  
Keith Buono, Lead Community Service Officer  
DATE: August 9, 2022  
SUBJECT: Recommended Changes to the Bennett Municipal Code – Chapter 7 and Chapter 9

## Background

As part of the ongoing review of the Bennett Municipal Code, the Community Services Department has reviewed and recommended amendments to Chapter 7 of the Bennett Municipal Code (BMC) regarding health and sanitation. A draft ordinance and strikethrough document have been included with this staff report for reference.

As part of those same amendments, Staff is proposing that the provisions in Chapter 7 regarding animals and animal control be moved to its own chapter in the BMC in order to promote clarity and ease of use by residents. Chapter 9 of the BMC is available for use and an ordinance has been drafted moving the provisions of animal control to that chapter. Additional amendments for animal control have also been proposed and are included in the drafted ordinance as well as the strikethrough document attached to this staff report.

## Proposed Amendments to Chapter 7 and Chapter 9

### Chapter 7 – Health and Sanitation

The following amendments have been proposed for Chapter 7 of the BMC.

- Chapter 7 shall be retitled to “Health and Sanitation.”
- Updating Section 7-1-120 regarding right of entry and setting forth more robust language around general right of entry, search warrants, emergencies and liability.
- Updating Section 7-1-130 regarding notice to abate a nuisance and establishing protocol for attaining an abatement order from the municipal court.
- Adding Section 7-2-150 regarding maintenance of fences and walls. This section was formally in Chapter 16 and was moved to Chapter 7 for code enforcement purposes.
- Article VII of Chapter 7 regarding animals is repealed in its entirety and moved to Chapter 9 of the BMC.

### Chapter 9 – Animal Control

The following amendments have been proposed for Chapter 9 of the BMC. All other provisions listed in the ordinance have been relocated from Chapter 7.

Proposed amendments have been made to the following definition words listed in Section 9-1-10.

- *Aggressive or dangerous animal*
- *Animal Control Officer*
- *Bodily injury*

- *Pot-bellied pig*
- *Serious injury*

In Section 9-1-15 to Section 9-1-200, the following proposed amendments have been suggested.

- The keeping of pot-bellied pigs shall be limited to two (2) and the total number of harbored animals shall not exceed four (4).
- Updating authority language to “the Town Administrator or their designee.”
- Updating code references throughout the chapter to reflect the new section numbers.
- Dog and cat licensing will now expire every year on December 31<sup>st</sup> of the year issued and must be renewed by January 15<sup>th</sup> of the following year.
  - Pot-bellied pigs have been added to the licensing section and are required, like other household pets, to wear a metal tag with the current license number.
  - If a license tag is lost, a replacement tag must be purchased.
- The owner of any dog is now required to pick up excrement deposited by their animal from private property not their own.

## Staff Recommendation

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Staff would like to receive feedback and suggested revisions from the Board of Trustees for Chapter 7 and Chapter 9. Pending suggested changes, the final ordinances will be brought before the Board for consideration on August 23, 2022.

## Attachments

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1. Staff Presentation – Chapter 7 and Chapter 9
2. Chapter 7 Draft Ordinance
3. Chapter 7 Strikethrough Reference Document
4. Chapter 9 Draft Ordinance
5. Chapter 9 Strikethrough Reference Document



# Chapter 7 and Chapter 9 Proposed Amendments

Keith Buono, Lead Community Service Officer



# Proposed Amendments to Chapter 7

- On going Bennett Municipal Code (BMC) Review
- Staff is proposing amendments to Chapter 7
- Creation of Chapter 9 of the BMC regarding animals and animal control
  - Promotes clarity and ease of use by residents.
  - Additional amendments for animal control.

# Proposed Amendments to Chapter 7

- Section 7-1-120 Right of Entry: Specifies the right of entry, use of warrants, emergency situations and liability limits for authorized persons.
- Section 7-1-130(b) Notice to Abate Nuisance: Specifies the steps to enforce an abatement notice, requiring a court order to allow the abatement.
- Section 7-2-150 Maintenance of Fences and Walls: Removed from chapter 16 and added to chapter 7 as it pertains to the upkeep of fences and walls and not their initial design and installation.

# Proposed Amendments to Chapter 9

- Chapter 9 has been created by removing the Animal Control Section from Chapter 7. All Section numbering has been changed from 7 to 9
- Definition of aggressive or dangerous animal has been updated to clarify its meaning.
- Code Enforcement Officer has been updated to include Community Service Officer to align with current verbiage.
- Definition of bodily injury and serious injury was added for the public's edification.
- Definition of pot-bellied pig added due to being referenced in the updated code.

# Proposed Amendments to Chapter 9

- Updating authority language to “the Town Administrator or their designee.”
- Updating code references throughout the chapter to reflect the new section numbers.
- 9-1-15 Excessive Number Prohibited: Pot-bellied pig has been added to the number of pets a resident may have. The grand total has not changed
- 9-1-70 Licensing of Dogs and Cats: Changes licensing requirements from 12 or 36 month issuance to yearly, beginning in January all licenses will be renewed. Licenses previously purchased will be grandfathered in; Section 9-1-70 ( d ) includes verbiage for pot-bellied pigs to be licensed and if tags are lost, a replacement must be purchased.
- 9-1-150 (11) Excrement: Add requirement for residents to remove their dog’s excrement from private property not their own.

**ORDINANCE NO. 755-22**

**AN ORDINANCE AMENDING CHAPTER 7 OF THE BENNETT MUNICIPAL CODE  
REGARDING HEALTH AND SANITATION**

**WHEREAS**, the Board of Trustees previously adopted Chapter 7 of the Bennett Municipal Code titled “Health, Sanitation and Animals;” and

**WHEREAS**, the Board of Trustees desires to amend the sections of Chapter 7 set forth below and to remove the sections concerning animals, which will be relocated to a new Chapter 9 of the Bennett Municipal Code; and

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF  
THE TOWN OF BENNETT, COLORADO, AS FOLLOWS:**

**Section 1.** Chapter 7 of the Bennett Municipal Code is hereby retitled to “Health and Sanitation.”

**Section 2.** Section 7-1-120 of the Bennett Municipal Code is hereby repealed and reenacted to read as follows:

**Sec. 7-1-120. Right of entry.**

(a) Right of Entry Generally. Whenever necessary to make an inspection to enforce this Chapter, or whenever a Community Service Officer has reasonable cause to believe there exists in any building or upon any premises any condition which constitutes a nuisance, the Community Service Officer shall first present proper credentials and request entry. If entry is refused, such officer shall give the responsible party, or if the responsible party cannot be located after a reasonable effort shall leave at the building or premises, a written notice of intent to inspect not sooner than twenty-four (24) hours after the time specified in the notice. The notice shall state that the responsible party has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by the municipal judge, or by a judge of any other court having jurisdiction.

(b) Search Warrants. A Community Service Officer may appear before the Municipal Judge and may request a search warrant for the inspection of a property pursuant to the procedures and standards set forth in Rule 241 of the Colorado Municipal Court Rules of Procedure. A Municipal Judge shall have power to issue search warrants authorizing Town officials, including but not limited to Community Service Officers and law enforcement officers, to inspect property for violations of this Chapter, in accordance with Rule 241 of the

Colorado Municipal Court Rules of Procedure.

(c) Emergencies. Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this Chapter, a Community Service Officer may enter into any building or upon any premises within the Town, using such reasonable force as may be necessary. An emergency situation includes any situation of imminent danger of loss of, or injury or damage to, life, limb, property or threat to public safety. It is unlawful for any owner or occupant of the building or premises to deny entry to any Community Service Officer or to resist reasonable force used by the officer acting pursuant to this subsection.

(d) Upon entry to examine a lot, house, building or other premises, to ascertain if a nuisance exists, the authorized person(s) shall be free from any action of liability on account thereof.

**Section 3.** Section 7-1-130 of the Bennett Municipal Code is hereby amended as follows (words to be added are underlined; words to be deleted are stricken through):

**Sec. 7-1-130. Notice to abate nuisance.**

(a) The Town shall give written notice to the property owner and/or occupant of said property of any violation of this Chapter and shall give notice that said owner and/or occupant has fourteen (14) days to abate the nuisance and comply with the requirements of this Chapter.

(b) Service of the written notice shall be by first class mail, postage prepaid, to the owner and occupant as reflected on the records of the Town or the County Assessor's office. If practicable, the notice may also be personally served on the owner and/or occupant of the premises, or by posting such notice on the subject property, or by other means reasonably calculated to provide notice.

~~(b) In case of the failure of any owner of such lots, tracts or parcels of land to abate the nuisance as set forth in this Chapter within the time and in the manner prescribed herein, the Town Administrator or the Board of Trustees may order the Director of Public Works to abate the nuisance. The Director of Public Works shall then proceed at once to have the work done accordingly.~~

(c) Abatement Order. Upon the expiration of the period of notice, or at any time thereafter, if the nuisance has not been abated on the property described in such notice, the Town may apply to the Municipal Court for an abatement order, as follows:

1. The application shall be accompanied by an affidavit affirming that the Town has complied with the notice requirements of

subsection (a) of this section and that the owner has failed to abate the identified nuisance upon the property.

2. The Town shall give notice to the responsible party of its application for the abatement of order in the same manner as provided in subsection (b) of this section for service of the original notice to abate.

3. The notice of application for an abatement order shall include a copy of the Town's application and its affidavit in support thereof, as well as the time, date, and place at which the Town will appear before the Municipal Court to request entry of the abatement order.

4. At the stated time, date, and place, the Municipal Court judge shall review the application for an abatement order, the affidavit, any statement of the Town in support thereof, as well as any statement and evidence presented by the responsible party, if present.

5. Thereafter, the Municipal Court is authorized to enter an order permitting the Town to enter upon such property, abate the same and recover its costs as provided by section 7-1-140.

**Section 4.** Article II, Chapter 7 of the Bennett Municipal Code is hereby amended by the addition of a new Section 7-2-150 to read as follows:

**Sec. 7-2-150. Maintenance of fences and walls.**

(a) Maintenance. Failing to maintain fences and walls in accordance with the requirements of this Section shall be declared a public nuisance. All fences and walls shall meet the following maintenance requirements:

(1) Fences and walls shall be maintained in a safe manner perpendicular to the ground. Should a fence or wall lean or sag more than fifteen (15) degrees to either side, perpendicular to the ground, it shall be considered to be a nuisance or a hazard and must be removed or repaired.

(2) Fences and walls no longer maintained in a safe manner and/or which create a hazard through neglect, lack of repair, manner of construction, method of placement, or otherwise, shall be repaired, replaced or removed by the property owner. Examples of lack of maintenance shall include, but are not limited to, protruding or exposed wire, missing and/or protruding pickets, sagging or leaning more than fifteen (15) degrees to either side, extending into a traveled walkway or creating a hazard for a pedestrian or motor vehicle.

**Section 5.** Article VII, Chapter 7 of the Bennett Municipal Code is hereby repealed in its



entirety.

**Section 6.** All prior ordinances or parts of such prior ordinances, codes or parts of codes in conflict with the provisions of this Ordinance are hereby repealed.

**Section 7.** If any portion of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part hereof irrespective of the fact that any one part be declared invalid, and such provision so held invalid shall be deemed to be separate, distinct and independent and the remaining provisions of this Ordinance shall continue in full force and effect.

**INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED, BY TITLE ONLY, THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2022.**

TOWN OF BENNETT, COLORADO

\_\_\_\_\_  
Royce D. Pindell, Mayor

ATTEST:

\_\_\_\_\_  
Christina Hart, Town Clerk

## CHAPTER 7

### Health, and Sanitation and ~~Animals~~

#### ARTICLE I Administration and Abatement of Nuisances

##### Sec. 7-1-10. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

*Brush* means voluntary growth of bushes and such as are growing out of place at the location where growing, and shall include all cuttings from trees and bushes; and also high and rank shrubbery growth which may conceal filthy deposits.

*Inoperable vehicle* means any motor vehicle or trailer that is apparently inoperable due to being wrecked, damaged, dismantled or partially dismantled. Any of the following conditions shall raise the presumption that the motor vehicle or trailer is inoperable:

- a. Absence of a current license plate and any required validation sticker lawfully affixed thereto;
- b. Placement of the motor vehicle or trailer or parts thereof upon jacks, blocks, chains or other supports; or
- c. Absence of one (1) or more parts of the motor vehicle or trailer necessary for lawful operation thereof, including but not limited to the absence of one (1) or more wheels.

*Litter* means the scattering or dropping of rubbish, trash or other matter, organic or mineral.

*Nuisance* means anything which is injurious to health or morals, or indecent or offensive to the senses or an obstruction to the free use of property which would interfere with the comfortable enjoyment of life or property.

*Refuse* means and includes any grass clippings, leaves, hay, straw, manure, shavings, excelsior, paper, ashes, rubbish containers, boxes, glass, cans, bottles, garbage, waste and discarded building and construction materials, including but not limited to plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose, discarded or unused material; all rubbish of any kind or nature whatsoever and any other materials commonly known as *rubbish* or *refuse* of any kind or character or by any means known.

*Rubbish* means any type of debris, trash, waste, refuse or rejected matter and material, whether animal, vegetable or mineral, manufactured or natural.

*Trash* means any worn out, broken up or used refuse, rubbish, toppings, twigs, leaves of trees or worthless matter or material.

*Travel under its own power* means a vehicle must be able to be started, stopped, driven forward and backward, and all tires inflated.

*Weed* means an unsightly, useless, troublesome or injurious growing herbaceous plant, and shall include all rank vegetable growth which emits unpleasant and noxious odors and also high and rank vegetable growth that may conceal filthy deposits.

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**Sec. 7-1-20. Common law nuisances.**

Any nuisance which has been declared to be such by state courts or statutes or is known as such at common law shall constitute a nuisance in the Town, and any person causing or permitting any such nuisance shall be in violation of this Article.

**Sec. 7-1-30. Prohibition of nuisances.**

No person being the owner, agent or occupant of, or having under his or her control, any building, lot, premises or unimproved real estate within the limits of the Town shall maintain or allow any nuisance to be or remain therein.

**Sec. 7-1-40. Ascertaining nuisances.**

Whenever the pursuit of any trade or business or the manufacture or maintenance of any substance or condition of things shall, upon investigation, be considered by the Town Administrator to be dangerous to the health of any of the inhabitants of the Town, the same shall be considered a nuisance and shall be abated.

**Sec. 7-1-50. Constitution of separate offense.**

In the case of any nuisance in or upon any street, alley or other public or private grounds, the author thereof shall be guilty of a separate offense for every period of twenty-four (24) hours' continuance thereof after notice has been given to abate the same.

**Sec. 7-1-60. Filing complaint.**

In addition to or in lieu of any procedure for abatement, a direct complaint may be filed by any person or police officer against any person who violates any provision of this Chapter.

**Sec. 7-1-70. County Health Department powers.**

The Tri-County Health Department has the full power to take all measures necessary to promote the health and cleanliness; to abate all nuisances of every description on public and private property; to prevent the introduction or spreading within the Town of malignant, contagious and infectious diseases, and to remove, detain, isolate or quarantine any person attacked by or having any such disease, or having been exposed thereto; and to promulgate such rules and regulations as may be necessary to perform its functions. The Tri-County Health Department shall have the authority to enforce such rules of the state Department of Public Health and Environment as are applicable to particular situations.

**Sec. 7-1-80. Abatement of nuisance.**

Any state of things prohibited by this Chapter shall be deemed a nuisance, and any person who shall hereafter make or cause such nuisance to exist shall be deemed the author thereof. However, the owner of any private ground or premises, and any person who shall have possession or control of any private ground or premises, whether he or she is the owner thereof or not, in or upon which any such nuisance shall exist or may be found, whether such nuisance has been theretofore or shall be thereafter created, shall be deemed guilty of a separate offense, as the author of a nuisance, for every period of twenty-four (24) hours' continuance of such nuisance after due notice has been given to abate the same. The written notice of twenty-four (24) hours may be given and served by the Chief of Police or other officers as he or she may designate.

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### **Sec. 7-1-90. Declaration of nuisance by Board.**

- (a) In the event that any such nuisance within or upon any public or private premises or grounds is not abated forthwith after the notice herein provided shall be given, the Board of Trustees may declare the same to be a nuisance and order the Chief of Police to abate the same, which order shall be executed without delay; and the Chief of Police shall have the authority to call for necessary assistance therefor.
- (b) Notwithstanding the foregoing, the Public Works Director shall have the authority to declare nuisances and order abatement of nuisances when the cost of abatement is less than five hundred dollars (\$500.00) and the abatement concerns weeds, junk, litter, trash, rubbish, garbage and refuse. In no event shall the Public Works Director authorize abatement of property where hazardous materials are present.

(Prior code 7-6-4; Ord. 533 §1, 2006)

### **Sec. 7-1-100. Abatement without notice.**

In case of any such nuisance in or upon any street, avenue, alley, sidewalk, highway or public grounds in the Town, the Chief of Police may abate the same forthwith, without such notice being given.

### **Sec. 7-1-110. Assistance to abate authorized.**

Any officer who shall be duly authorized to abate any nuisance specified in this Article, shall have authority to engage the necessary assistance and incur the necessary expenses thereof.

### **Sec. 7-1-120. Right of entry.**

~~The Town Administrator, Mayor, Chief of Police, Board of Trustees or any other authorized person who may be directed or deputized by the Board of Trustees may enter upon or into any lot, house or other building or premises, with the proper respect for the occupant's constitutional rights, to examine the same and to ascertain whether any such nuisance exists, and shall be free from any action of liability on account thereof.~~

- (a). Right of Entry Generally. Whenever necessary to make an inspection to enforce this chapter, or whenever a Community Service Officer has reasonable cause to believe there exists in any building or upon any premises any condition which constitutes a nuisance, the Community Service Officer shall first present proper credentials and request entry. If entry is refused, such officer shall give the responsible party, or if the responsible party cannot be located after a reasonable effort shall leave at the building or premises, a written notice of intent to inspect not sooner than twenty-four (24) hours after the time specified in the notice. The notice shall state that the responsible party has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by the municipal judge, or by a judge of any other court having jurisdiction.
- (b). Search Warrants. A Community Service Officer may appear before the municipal judge and may request a search warrant for the inspection of a property pursuant to the procedures and standards set forth in Rule 241 of the Colorado Municipal Court Rules of Procedure. A municipal judge shall have power to issue search warrants authorizing Town officials, including but not limited to Community Service Officers and law enforcement officers, to inspect property for violations of this chapter, in accordance with Rule 241 of the Colorado Municipal Court Rules of Procedure.
- (c). Emergencies. Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this chapter, a Community Service Officer may enter into any building or upon any premises within the Town, using such reasonable force as may be necessary. An emergency situation includes any situation of imminent danger of loss of, or injury or damage to, life, limb, property or threat to public safety.

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It is unlawful for any owner or occupant of the building or premises to deny entry to any Community Service Officer or to resist reasonable force used by the officer acting pursuant to this subsection.

- (d) Upon entry to examine a lot, house, building or other premises, to ascertain if a nuisance exists, the authorized person(s) shall be free from any action of liability on account thereof.

### **Sec. 7-1-130. Notice to abate nuisance.**

- (a) The Town shall give written notice to the property owner and/or occupant of said property of any violation of this Chapter and shall give notice that said owner and/or occupant has fourteen (14) days to abate the nuisance and comply with the requirements of this Chapter.
- (b) Service of the written notice shall be by first class mail, postage prepaid, to the owner and occupant as reflected on the records of the Town or the County Assessor's office. If practicable, the notice may also be personally served on the owner and/or occupant of the premises, or by posting such notice on the subject property, or by other means reasonably calculated to provide notice.
- (c) ~~In case of the failure of any owner of such lots, tracts or parcels of land to abate the nuisance as set forth in this Chapter within the time and in the manner prescribed herein, the Town Administrator or the Board of Trustees may order the Director of Public Works to abate the nuisance. The Director of Public Works shall then proceed at once to have the work done accordingly.~~

Abatement Order. Upon the expiration of the period of notice, or at any time thereafter, if the nuisance has not been abated on the property described in such notice, the Town may apply to the municipal court for an abatement order, as follows:

1. The application shall be accompanied by an affidavit affirming that the Town has complied with the notice requirements of subsection (a) of this section and that the owner has failed to abate the identified nuisance upon the property.
2. The Town shall give notice to the responsible party of its application for the abatement of order in the same manner as provided in subsection (a) of this section for service of the original notice to abate.
3. The notice of application for an abatement order shall include a copy of the Town's application and its affidavit in support thereof, as well as the time, date, and place at which the Town will appear before the municipal court to request entry of the abatement order.
4. At the stated time, date, and place, the municipal court judge shall review the application for an abatement order, the affidavit, any statement of the Town in support thereof, as well as any statement and evidence presented by the responsible party, if present.
5. Thereafter, the municipal court is authorized to enter an order permitting the Town to enter upon such property, abate the same and recover its costs as provided by section 7-1-140.

(Ord. 526 §1, 2005)

### **Sec. 7-1-140. Recovery of expenses.**

The expense incurred by the Town in abating any nuisance may be recovered from the author thereof as set forth in this Chapter.

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**Sec. 7-1-150. Report of costs.**

Upon the completion of any work by the Town contemplated by this Chapter, the Director of Public Works shall report, in writing, to the Board of Trustees, a clear statement of the work done by the Town and the expense incurred in so doing, so that the Town Administrator or the Board of Trustees may determine the cost of such work. The Director of Public Works shall make a separate report for each lot or parcel of land.

**Sec. 7-1-160. Assessment of property.**

After considering the report of the Director of Public Works, the Board of Trustees shall determine and assess the whole cost for the abatement thereof, including five percent (5%), or twenty percent (20%) in the case of noxious plant abatement, for the inspection and other incidental costs in connection therewith, upon the lots and tracts of land from which the nuisance was abated.

**Sec. 7-1-170. Notice of assessment.**

The Town Clerk, as soon as may be after such assessment is made, shall send by certified mail, return receipt requested, addressed to the owner of such lots or tracts of land at the reputed post office address, a notice of such assessment, which notice shall contain a description of the lots or parcels of land, the name of the owner and the amount of the assessment.

**Sec. 7-1-180. Payment of assessment.**

- (a) It shall be the duty of the owner to pay such assessment or object thereto, in writing, within thirty (30) days after the receipt of such notice, and in case of his or her failure to do so, he or she shall be liable personally for the amount of the assessment. The same shall be a lien upon the respective lot or parcel of land from the time of such assessment, and the Town shall have all remedies for collection thereof provided by state statutes, for the purpose of having the same placed upon the tax list and collected in the same manner as taxes are now collected. The assessment shall be a lien against each lot or tract of land until it is paid and shall have priority over all other liens except general taxes and prior special assessments.
- (b) The amount of such assessment may be paid to the Town Clerk at any time before the tax list is placed in the hands of the County Treasurer, but thereafter only to the County Treasurer.

(Ord. 526 §1, 2005)

**Sec. 7-1-190. Objection to assessment; hearing.**

In the event any owner desires to object to said assessment, he or she shall, within thirty (30) days after the receipt of said notice, file a written objection thereto with the Town Clerk, who shall thereupon designate a meeting of the Board of Trustees, held within twenty-one (21) days of receipt of such objection, as the date when said objector may appear and have a hearing before the Board of Trustees.

**Sec. 7-1-200. Certified assessment.**

In case the owner shall fail to pay such assessment or object thereto within the required time as provided above, then it shall be the duty of the Town Clerk to certify the amount of the assessment to the proper county officers, who shall collect the assessment as provided for by state law for the collection of delinquent general taxes.

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**Sec. 7-1-210. Cumulative remedies.**

No remedy provided herein shall be exclusive, but the same shall be cumulative, and the taking of any action hereunder, including charge, conviction or violation of this Chapter in the Municipal Court, shall not preclude or prevent the taking of other action hereunder to abate or enjoin any nuisance found to exist.

**Sec. 7-1-220. Concurrent remedies.**

Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action, and when applicable the abatement provisions of this Chapter shall serve as and constitute a concurrent remedy over and above any charge or conviction of any municipal offense or any other provision of law. Any application of this Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under this Code or any other provision of law.

**Sec. 7-1-230. Violations and penalties.**

Any person who violates any of the provisions of this Chapter shall be subject to the provisions of Section 1-4-20 of this Code.

## **ARTICLE II Nuisances**

**Sec. 7-2-10. Accumulation to constitute nuisances.**

Whenever there shall be in or upon any lot or piece of ground within the limits of the Town any damaged merchandise, litter, trash, rubbish, garbage, inoperable cars or other wrecked vehicles or an accumulation of junk vehicles or junk of any type upon any private or public property, except in areas specifically zoned in Chapter 16 of this Code for said purposes or otherwise designated by the Town for such purposes, the existence of any such material or items shall constitute a nuisance and shall be in violation of this Article.

**Sec. 7-2-20. Posting handbills, posters and placards.**

Any handbill, poster, placard or painted or printed matter which shall be stuck, posted or pasted upon any public or private house, store or other building or upon any fence, power pole, telephone pole or other structure without the permission of the owner, agent or occupant thereto shall be deemed a nuisance and may be abated as provided in this Chapter.

**Sec. 7-2-30. Streets, streams and water supply.**

- (a) No person shall throw or deposit, or cause or permit to be thrown or deposited, any motor oil, automotive fuels or liquids, any offal composed of animal or vegetable substance or both, or any dead animal, excrement, garbage or other offensive matter upon any street, avenue, alley, sidewalk or public or private grounds.
- (b) No person shall throw or deposit or cause or permit to be thrown or deposited in the Town anything specified in any foregoing part of this Section or any other substance that would tend to have a polluting effect into the water of any stream, ditch, pond, well, cistern, trough or other body of water, whether artificially or naturally created, or so near any such place as to be liable to pollute the water.

(Ord. 526 §1, 2005)

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**Sec. 7-2-40. Stagnant ponds.**

The permitting of stagnant water on any lot or piece of ground within the Town limits is hereby declared to be a nuisance, and every owner or occupant of a lot or piece of ground within the Town is hereby required to drain or fill up said lot or piece of ground whenever the same is necessary so as to prevent stagnant water or other nuisances from accumulating thereon. It is unlawful for any such owner or occupant to permit or maintain any such nuisance.

**Sec. 7-2-50. Sewer inlet.**

No person shall, in the Town, deposit in or throw into any sewer (sanitary or storm), sewer inlet or privy vault that shall have a sewer connection any article that might cause such sewer, sewer inlet or privy vault to become nauseous to others or injurious to public health.

**Sec. 7-2-60. Erection or maintenance of privies.**

No person shall erect or maintain or allow the erection or maintenance of an outdoor privy not connected with the public sanitary sewer system of the Town; provided, however, that privies which have chemical elimination systems used by construction personnel on job sites or by the public at events sponsored or approved by the Town are not prohibited under the provisions of this Section.

**Sec. 7-2-70. Nauseous liquids.**

No person shall discharge or permit to be discharged out of or from or permit to flow from any house or property any foul or nauseous liquid or substance of any kind into or upon any adjacent ground or lot or into any street, alley or public place.

**Sec. 7-2-80. Stale matter.**

No person shall keep, collect or use, or cause to be kept, collected or used, in the Town any stale, putrid or stinking fat or grease or other stale matter, other than normal weekly trash accumulation.

**Sec. 7-2-90. Transporting garbage, manure.**

Every cart or vehicle used to transport manure, garbage, swill or offal in any street in the Town shall be fitted with a substantial tight lid thereon so that no portion of such filth will be scattered or thrown into such street.

**Sec. 7-2-100. Dumping on property.**

It is unlawful for any person to use any land, premises or property within the Town for the dumping or disposal of any garbage, trash, litter, rubbish, offal, filth, excrement, discarded building materials or combustible materials of any kind.

**Sec. 7-2-110. Dead animal removal.**

When any animal dies in the Town, it shall be the duty of the owner or keeper thereof to remove the body of such animal forthwith beyond the limits of the Town. If such body is not forthwith removed, the same shall be deemed a nuisance, and such owner or keeper will be the author of the nuisance. When the body of any such dead



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animal is in any street, highway or public grounds in the Town, it shall be the duty of the Chief of Police to cause such body to be removed forthwith beyond the limits of the Town.

**Sec. 7-2-120. Noisemakers.**

The use of music, noisemakers or loudspeakers on the streets of the Town for the sale or vending of products, advertising or other commercial purposes is hereby declared to be a nuisance and is prohibited by the terms of this Chapter.

**Sec. 7-2-130. Vacant residential dwellings.**

All broken windows in a vacant dwelling shall be replaced by the owner or agent within seventy-two (72) hours after notice is given by the Chief of Police.

**Sec. 7-2-140. Unsanitary dangerous conditions in buildings.**

It is hereby declared a nuisance to permit any building or structure or part thereof to be in an unsanitary, unsafe or dangerous condition, or to be in a condition which in any manner endangers or is detrimental to the health, property or safety of any person.

**Sec. 7-2-150. Maintenance of fences and walls.**

(e) Maintenance. Failing to maintain fences and walls in accordance with the requirements of this Section shall be declared a public nuisance. All fences and walls shall meet the following maintenance requirements:

- (1) Fences and walls shall be maintained in a safe manner perpendicular to the ground. Should a fence or wall lean or sag more than fifteen (15) degrees to either side, perpendicular to the ground, it shall be considered to be a nuisance or a hazard and must be removed or repaired.
- (2) Fences and walls no longer maintained in a safe manner and/or which create a hazard through neglect, lack of repair, manner of construction, method of placement, or otherwise, shall be repaired, replaced or removed by the property owner. Examples of lack of maintenance shall include, but are not limited to, protruding or exposed wire, missing and/or protruding pickets, sagging or leaning more than fifteen (15) degrees to either side, extending into a traveled walkway or creating a hazard for a pedestrian or motor vehicle.

( Ord. 646-14 §1(Exh. A), 12-9-2014 ; Ord. 679-17 , §20, 12-12-2017)

## **ARTICLE III Refuse**

**Sec. 7-3-10. Accumulation prohibited.**

No person shall deposit or place any refuse in such a manner that the same is or tends to become a nuisance or in such a manner as endangers or tends to endanger the public health. No person having the occupancy, control or management of any new premises shall cause or permit any refuse to be accumulated thereon in such a manner that the same is or tends to become a nuisance or in such a manner as endangers or tends to endanger the public health. No garbage or trash cans or bags shall be allowed in front yards, except on trash pickup day.

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**Sec. 7-3-20. Discarded refuse.**

No refuse of any kind or nature whatsoever shall be thrown or swept into any street, sidewalk, gutter, sewer, intake, alley, vacant lot or other property.

**Sec. 7-3-30. Responsibility of owners.**

It shall be the duty of every person, whether owner, lessee or renter of a vacant lot, building or premises, including any place or business, hotel, restaurant, dwelling house, apartment, tenement or any other establishment, at all times to maintain the premises in a clean and orderly condition, permitting no deposit or accumulation of refuse or materials other than those ordinarily attendant upon the use for which such premises are legally intended. Any such accumulation shall constitute a nuisance and shall be conforming in the use of such premises.

**Sec. 7-3-40. Removal from construction sites.**

All plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material of any kind resulting from the wrecking, constructing or reconstructing of any room, basement, wall, fence, sidewalk or building shall be promptly removed or discarded in such a manner as not to be scattered about by the wind or otherwise, and as soon as possible be removed by the person responsible for such work. Such person shall be held liable for any scattering of such refuse upon adjacent property.

**Sec. 7-3-50. Manure.**

Other than a light spread of manure which may be applied on lawns or gardens for fertilizing purposes, manure shall not be kept on any property for any purpose or kept in any place for later use, but shall be either plowed under or removed by the owner, occupant or agent.

## **ARTICLE IV Salvage and Junkyard Regulations**

**Sec. 7-4-10. Purpose.**

The intent of this Article is to provide salvage yard and junkyard operations with minimum standards so as to be compatible with uses in the surrounding area; and to regulate the nature, character and circumstances of each salvage operation as it relates to the effect on the future development of the compatibility with the area, and the effect on the health, safety and welfare of the inhabitants of the Town.

**Sec. 7-4-20. Definitions.**

For the purpose of this Article, the following words and phrases shall have the meanings ascribed to them in this Section:

*Hedge* means at least one (1) row of trees, shrubs or vines of the height prescribed and planted as determined by the Board of Adjustment to be for the public health, safety and welfare. The following trees and shrubs are prohibited from being used as a hedge:

- a. American elm (*Ulmus americana*), aspen (*Populus species*), boxelder (*Acer negundo*), cottonwood (*Populus species*), ginkgo (*Ginkgo biloba*), poplar (*Populus species*), willows (*Salix species*).

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- b. Any plant species which is recommended as a possible hazard as a result of insects or disease by the State Department of Agriculture.

*Junk* includes but is not limited to, scrap lumber, scrap metals and materials, discarded furniture, fixtures, appliances, motor vehicles, parts and tires and all wrecked, abandoned, demolished, dismantled, and inoperable motor vehicles, machinery, trailers and other goods that are so worn or deteriorated as to make them unusable in their existing condition.

*Junk dealer* means every person who buys, exchanges, collects, receives, stores or sells any article hereinabove defined as *junk*.

*Junkyard* means any outside area in the Town at which any person shall store or accumulate *junk* as defined herein.

*Salvage* means any personal property which is or may be stored or accumulated, salvaged for resale, reduction or similar disposition, or which is possessed, transported, owned, collected, accumulated, dismantled or assorted for any of the aforesaid purposes. Without limiting the aforesaid definition of *salvage*, the term shall include used or salvaged iron, brass, lead, copper and other base metal of metals, and their compounds or combination, used or salvaged rope, lumber, appliances, brick, tile, plumbing fixtures, rags, glass, rubber and similar articles, and used motor vehicles or machinery used, owned or possessed for the purpose of wrecking or salvaging parts therefrom.

*Salvage dealer* means every person who buys, exchanges, collects, receives, stores or sells any article hereinabove defined as *salvage*.

*Salvage yard* means any outside area in the Town at which any person shall store or accumulate salvage as defined herein.

## **Sec. 7-4-30. Salvage and junkyard requirements.**

(a) Salvage and storage premises to be enclosed.

- (1) No permit shall be issued by the Board of Adjustment for any salvage yard or junkyard in the Town unless the premises on which such business or storage is carried is entirely enclosed by a solid fence at least six (6) feet in height. Such fence shall be a masonry wall, a wooden fence, a steel fence or concealing chain link as approved by the Board of Adjustment. Such fence shall be maintained in a neat, substantial, safe condition. All gates shall open inward and shall be kept closed when the premises are not open for business.
- (2) Such wall, fence or the gates thereof shall not contain any advertising sign or poster other than that needed to identify the enclosed business.
- (3) Salvage or junk operations, including storage, shall not encroach upon or use any area outside the enclosure.
- (4) No screening shall be required in the following instances:
  - a. The common boundary between adjacent salvage yards and junkyards.
  - b. That portion of the boundary to be enclosed which is contiguous to a view-obscuring topographic feature rendering screening unnecessary.
  - c. That portion of the boundary to be enclosed which is contiguous to an industrial use of similar nature to a salvage yard or junkyard which is of such a view-obscuring arrangement, topographic or otherwise, as to render screening unnecessary.

Any dispute as to the need for enclosure in the foregoing instances shall be determined by the Board of Adjustment. The Board of Adjustment shall have the authority to grant a variance as part of the permit

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allowing an alternate method of enclosure in substitution for the wall or fence, provided that the alternative method of enclosure shall fulfill the intent to keep out children; to keep out persons attempting to enter salvage yards and junkyards illegally; to keep such areas free from rodents; and to effectively screen such yards from public view.

- (b) Passageways between stored salvage and junk. Salvage and junk in an enclosed yard shall be so piled or placed that adequate passageways are open to permit the unobstructed passage of firefighting vehicles. Such passageways within the yard shall be approved in writing by the Fire Chief, Bennett Fire Protection District.
- (c) Cleanliness. It shall be the duty of the person operating a salvage yard or junkyard to maintain the premises so used in a clean, sanitary, and neat condition, and in such a manner as to eliminate and exclude rodents.

(Prior code 7-10-2; Ord. 526 §1, 2005)

#### **Sec. 7-4-40. Permits and inspections.**

- (a) Permit required. It is unlawful for any person to maintain or operate a salvage yard or junkyard or engage in the business of salvage or junk collection without first having obtained a permit therefor. Applications for permits shall be made to the Board of Adjustment. In addition to such permit, the facility and property shall comply with all provisions of Chapter 16 of this Code.
- (b) Inspections. It shall be the duty of the Director of Environment to inspect or cause to be inspected, at least once each year, all salvage yards and junkyards in the Town. Such inspections are for the purpose of determining that the salvage yards and junkyards are operated in conformity herewith and are kept in a clean, neat and sanitary condition.

(Prior code 7-10-3; Ord. 526 §1, 2005)

## **ARTICLE V Weeds and Brush**

#### **Sec. 7-5-10. Undesirable Plant Management Advisory Commission designated.**

The Board of Trustees is appointed to act as the Undesirable Plant Management Advisory Commission for the Town and shall have the duties and responsibilities as provided by state statute.

Editor's note(s)—Section 35-5.5-101, C.R.S., establishes the requirements for undesirable plant management in the State.

#### **Sec. 7-5-20. Declaration of nuisance.**

Any uncut weeds or brush found growing in any lot or tract of land in the Town are hereby declared to be a nuisance, and it is unlawful to permit any such weeds or brush to grow or remain in any such place.

#### **Sec. 7-5-30. Duty of property owner to cut.**

It shall be the duty of each and every person owning, occupying or possessing any lots, tracts or parcels of land within the Town to cut to the ground all weeds and brush when said weeds and brush grow to a height of six (6) inches or more.

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### **Sec. 7-5-40. Removal from Town.**

All weeds and brush cut in accordance with Section 7-5-30 hereof shall, immediately upon being cut, be removed from the Town or otherwise entirely destroyed by the owner of the lot upon which the weeds and brush have been cut.

## **ARTICLE VI Trees**

### **Sec. 7-6-10. Prohibited trees.**

- (a) It is unlawful to sell or import into the Town, or to plant or cause to be planted within the corporate limits of the Town, any female box elder tree (*Acer negundo*).
- (b) The owner of any property within the Town, upon which any female box elder tree has been planted after the effective date of this Article, shall cut and remove such tree from his or her property after being given two (2) days' written notice to do so by the Town.
- (c) In case of the failure of any owner of such property to cut and remove such box elder tree planted after the effective date of this Article, the Town shall cut and remove such box elder tree.
- (d) It is unlawful and deemed a public nuisance to sell, import into the Town or plant or cause to be planted any female cottonwood trees (*Populus spices*), Siberian elm (*Ulmus pumila*) or other undesirable plants as designated by ordinance upon any property within the Town, and the planting or setting out of these certain plants is declared to be a menace to public health, safety and welfare.

(Ord. 526 §1, 2005)

### **Sec. 7-6-20. Trees and limbs in public right-of-way.**

It shall be the duty, jointly or severally, of the owner and the occupant of any property adjacent to the public right-of-way to remove any trees or limbs located in or above the public right-of-way when such trees or limbs constitute a danger to public safety. Such trees and limbs shall constitute a nuisance. For the purposes of this Section, a *danger to public safety* shall include all trees and limbs which hinder visibility or which may otherwise affect public health, safety and welfare, and trees and limbs which present a structural defect which may cause the tree or limb to fall on a person or on property of value.

### **Sec. 7-6-30. Control of trees and shrubs.**

- (a) Trees, shrubs and other vegetation which are dead, broken, diseased or infested by insects so as to endanger the well-being of other trees, shrubs or vegetation or constitute a potential threat or hazard to people or property within the Town are hereby declared a nuisance.
- (b) The Town shall give written notice to the owner or occupant of any property abutting Town rights-of-way or other public property of any condition deemed unsafe caused by trees and other vegetation overhanging or projecting from such abutting property and onto or over such right-of-way or other public property with such unsafe condition. The Town shall correct any such unsafe condition immediately upon the expiration of the notice period specified in the notice of abatement. The rights and remedies of the Town as provided in this Subsection shall be cumulative with the provisions of Section 7-6-20.

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- (c) It is unlawful and deemed a nuisance for any person to cut, trim, spray, remove, treat or plant any tree, vine, shrub, hedge or other woody plant upon access-controlled arterials or other public parks and greenbelts within the Town, unless authorized or directed by the Town.
- (d) It is unlawful and deemed a nuisance for any person to injure, damage or destroy any tree, shrub, vine, hedge or other vegetation in or upon public rights-of-way or other public property within the Town, except any person who notifies the Town of such injury, damage or destruction and makes arrangements to repair or replace such vegetation or pay for the cost of such repair or replacement.
- (Ord. 526 §1, 2005)

## **ARTICLE VII Animals<sup>1</sup>**

### **~~Sec. 7-7-10. Definitions.~~**

~~The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.~~

~~*Abandoned* means the leaving of an animal without adequate provisions for the animal's proper care by its owner or any person responsible for the animal's control or custody or having possession of such animal.~~

~~*Aggressive or dangerous animal* shall mean any dog or other animal that, without intentional provocation, or in an aggressive or dangerous manner approaches any person or other animal in an apparent attitude of attack, whether or not the attack is consummated or capable of being consummated.~~

~~*Animal* means a living organism other than a plant or bacterium. Animal in this Article includes arthropods, amphibians, reptiles, birds, and mammals. As used in this Article, the term "animal" excludes humans.~~

~~*Animal Control Officer* means any employee of the Town, including the Code Enforcement Officer, any employee of the Town's designated animal shelter or any member of the County Sheriff's Office whose job duties include the enforcement of the terms of this Article.~~

~~*Animal grooming service* means any place or establishment where animals are kept less than twenty four (24) hours to be clipped, combed or otherwise groomed for compensation for the purpose of enhancing their appearance, aesthetic value or health.~~

~~*Animal, spayed/neutered* means any animal upon which any neutering procedure has been performed by a licensed veterinarian and accompanied by a certificate asserting such operation or other procedure has been performed.~~

~~*Apiary* means a place where bee colonies are kept.~~

~~*Bee* means any stage of the common domestic honey bee, *apis mellifera* species.~~

~~*Cat* means any animal of the species *Felis domesticus*.~~

~~*Colony* means a hive and its equipment and appurtenances, including bees, comb, honey, pollen, and brood.~~

~~*Dog* means any animal of the species *Canis familiaris*.~~

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<sup>1</sup>Editor's note(s)—Ord. No. 706-20, § 1(Exh. A), adopted March 24, 2020, amended Art. VII in its entirety to read as herein set out. Former Art. VII, §§ 7-7-10—7-7-140, pertained to animal control, and derived from Ord. 300 §1, adopted in 1992; Ord. 339 §1, adopted in 1996; Ord. 352 §1, adopted in 1997; Ord. 510 §1, adopted in 2004; Ord. 526 §1, adopted in 2005; Ord. 559 §1, adopted in 2006; Ord. 591 §3, adopted in 2009; Ord. 610-10 §3, adopted in 2010; Ord. 652-15, §§1—4, adopted in 2015; and Ord. 696-19 §4, adopted in 2019.

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*Dog kennel* means any facility for housing, boarding, harboring, training or breeding where more than three (3) dogs that are four (4) months of age or older are kept.

*Guard dog* means any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog that is either securely enclosed within the area at all times or under the continuous control of a trained handler.

*Household pet* means any domesticated animal commonly kept in the primary residence. Household pets include dogs, domestic cats, domestic caged birds, canaries, parrots, potbellied pigs, rabbits, hamsters, guinea pigs and similar rodents, fish, and reptiles so long as such animals are not kept to supplement food supplies or for any commercial purpose whatsoever. Household pet does not include livestock.

*Livestock* means any chickens, ducks, geese, turkeys, peafowl, peacocks or other domestic fowl, hogs, pigs (except pot belly pigs), swine, sheep, goats, cattle, horses, mules, llamas or other animals raised or kept for profit or production.

*Microchip* means an electronic transponder intended for the subcutaneous insertion into an animal for the use of identification.

*Mistreatment* means an act or omission which causes or unreasonably permits the continuation of unnecessary abuse or unjustifiable pain or suffering.

*Neglect* means failure to provide food, water, protection from the elements or other care generally considered to be normal, usual and accepted for an animal's health and wellbeing consistent with the species, breed and type of animal.

*Owner* means any person in possession of, harboring, keeping or having custody, financial or property interest or control of any animal.

*Pet shop* means any business engaged in buying, selling, trading or bartering for resale or wholesale pet animals to consumers, brokers, commissioned merchants or any middleman.

*Police dog* means a currently registered and certified canine police dog that is either in training or on active duty status with a law enforcement agency within the State.

*Premises of the owner* means the residence of the owner, including the attached property surrounding the residence that is leased or owned by the owner, but not including any common area, park or recreational property jointly owned or leased by the members of a homeowners' or tenants' association.

*Quarantine* means a state, period or place of isolation in which an animal is observed for a period of no fewer than ten (10) days from the date of bite or exposure to a contagious disease.

*Running at large* means an animal off or away from the premises of the owner, and not under the control of such owner or an agent, servant or member of the immediate family, either by leash, cord or chain.

*Service animal* means a dog that is individually trained to do work or perform tasks for people with disabilities. A miniature horse may qualify as a service animal under the circumstances set forth in the American with Disabilities Act (ADA) regulations. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals.

*Town's designated animal shelter* means any premises designated by the Town Administrator for the humane boarding and caring for any animal impounded under this Article or any other ordinance or laws of the state.

*Veterinary clinic* means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

*Vicious animal* means any animal that, without provocation, bites or attacks a person or another domestic animal, either on public or private property.

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*Wildlife* means any animal that exists in a natural wild state in its place of origin, presently or historically, except those species determined to be domestic animals or livestock by this Article.

#### **~~Sec. 7-7-15. Excessive number prohibited.~~**

~~It shall be unlawful for any person to keep or harbor more than four (4) dogs or four (4) cats or a combination thereof that are four (4) months of age or older on any premises within the Town of Bennett. Only one (1) litter of offspring may be kept on the premises until the age of six (6) months. Exceptions are licensed kennels, veterinary clinics, pet shops, animal grooming services and shelters.~~

#### **~~Sec. 7-7-20. Inspection and enforcement powers.~~**

- ~~(a) Any animal control officer, any policing agency or other person who may be so authorized by the code is hereby authorized to issue a summons and complaint to any person when said officer personally observes a violation of the provisions of this Article, or when information is received from any person who has personal knowledge that an act or acts which are made unlawful by the provisions of this Article have occurred. The penalty assessment procedure provided in the Colorado Municipal Court rules of procedure (mail in fines) may be followed, as permitted by law, by the animal control officer, provided that a mandatory court appearance will be required of the owner whenever an animal is impounded as provided in this Article.~~
- ~~(b) Interference unlawful. It shall be unlawful for any person to interfere with, harass, hinder or obstruct the animal control officer or any other Town employee or official in the discharge of official duties under this Article.~~
- ~~(c) Inspection procedure. Whenever it becomes necessary to make an inspection to enforce any of the provisions of or to perform any duty imposed by this Article or other applicable law or whenever the animal control officer or authorized representative has reasonable cause to believe that there exists in any building or upon any premises any violation of the provisions of this Article or other applicable law, the animal control officer or authorized representative is authorized to enter such property at any reasonable time and to inspect the property and perform any duty imposed upon the animal control officer by this Article or by other applicable law, provided that:~~
- ~~(1) If such property is occupied, the animal control officer shall first present proper credentials to the occupant and request and obtain permission for entry, explaining the reasons therefor; or~~
- ~~(2) If such property is unoccupied, the animal control officer shall first make a reasonable effort to locate the owner or other person having charge or control of the property and request entry, explaining the reasons therefor. If such entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after due diligence, the animal control officer or authorized representative shall have recourse to every remedy provided by law to secure lawful entry and inspect the property. Notice of the entry shall be given by posting such notification at an entrance to or at a conspicuous place upon such area or building where such animal is confined.~~
- ~~(d) Immediate inspection. Notwithstanding Subsection (c) of this Section, if the animal control officer or authorized representative has reasonable cause to believe that the keeping or the maintaining of any animal is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the animal or the public health or safety, the animal control officer, after first notifying the Town Administrator, shall have the right to immediately enter and inspect such property and may use any reasonable means required to effect such entry and make such inspection, whether such property is occupied or unoccupied and whether or not permission to inspect has been obtained. If the property is occupied, the animal control officer shall first present proper credentials to the occupant and demand entry, explaining the reasons therefor and the purpose of the inspection.~~



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- (e) ~~Exemption for police dogs. Police dogs shall be deemed exempt from the provisions of this Article while being used by the policing agency in the performance of the functions and duties of the policing agency.~~
- (f) ~~The animal control officer is authorized to use any tranquilizer gun or other firearm (if the animal control officer is authorized by law to carry a firearm) to subdue or destroy any wild, exotic or dangerous animal that is determined by the animal control officer or policing agency in his or her discretion to be of danger to either itself or to the public health and safety.~~

(Ord. 706-20, §1(Exh. A), 3-24-2020)

### **~~Sec. 7-7-25. Public nuisance.~~**

Under this Article, it shall be unlawful for any person to cause or constitute a public nuisance or to knowingly permit, encourage or unreasonably fail to prevent such nuisances. Nuisance, for purposes of this Section, shall be deemed to be, but not limited to:

- (1) ~~Any continuous and habitual violation of any Section within this Article. Factors to be considered may be, but are not limited to, accumulated convictions for separate and distinct violations, degree of aggravation, number of violations within one (1) year or failure of the owner to take corrective action for any violation or all violations.~~
- (2) ~~Any behavior involving animals that endangers the health, safety or public peace of the community.~~
- (3) ~~Negligence in allowing the accumulation of waste matter to the degree of creating a putrid, offensive, unsanitary or unhealthy condition to the surrounding area.~~

### **~~Sec. 7-7-27. Keeping of barking dogs.~~**

- (a) ~~It shall be unlawful to keep or harbor any dog which by frequent, habitual or continued barking, yelping or howling shall cause an annoyance or inconvenience to a neighbor or to people passing to and from upon the public streets or sidewalks, and such is declared to be a nuisance as defined in Section 7-7-25 and a violation of this Article.~~
- (b) ~~The animal control officer or a member of the policing agency shall have the authority to use all reasonable means to abate such nuisance, including, but not limited to, requiring that the owner make bona fide efforts to quiet the dog or upon approval of Town Administrator, impoundment of the dog where the owner is absent from the premises. Upon impoundment of a dog for violation of this Section, the animal control officer or policing agency shall attempt to locate and notify the absent owner by any reasonable means as readily as possible.~~
- (c) ~~No summons and complaint shall be issued nor shall there be a conviction for violation of this Section unless there are at least two (2) or more complaining witnesses from separate households who shall have signed such complaint and shall have testified at trial. An animal control officer or policing agency who has personally investigated the complaint of a single complainant and observed problem behavior of the dog with regard to its frequent, habitual or continued barking, yelping or howling may satisfy the requirement for the second complaining witness and may give testimony to such observations at trial.~~

(Ord. 706-20, §1(Exh. A), 3-24-2020)

### **~~Sec. 7-7-30. Keeping of wildlife, exotic animals, or livestock.~~**

- (a) ~~Prohibited. It shall be unlawful for any person to own, possess, harbor, sell or in any other manner traffic in the following species or hybrid species of animals:~~

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- ~~(1) All poisonous or venomous animals, anacondas, reticulated pythons, burmese pythons and amethystine pythons.~~
  - ~~(2) All other non-venomous snakes with a length greater than six (6) feet measured from the tip of the nose to the tip of the tail.~~
  - ~~(3) All other reptiles with a length greater than three (3) feet measured from the tip of the nose to the tip of the tail.~~
  - ~~(4) Gorillas, chimpanzees, orangutans, baboons and any other primates.~~
  - ~~(5) Any species of feline not falling within the categories of ordinary domesticated house cats.~~
  - ~~(6) Bears of any species.~~
  - ~~(7) Marsupials, squirrels, raccoons, porcupines, skunks, badgers or other like species, except ferrets (mustela furo).~~
  - ~~(8) Foxes, wolves, coyotes or other species of canines other than dogs.~~
  - ~~(9) Crocodilians and monitor lizards.~~
  - ~~(10) Any animal that is not indigenous to the state and is not classified as a household pet.~~
  - ~~(b) It is unlawful for any person to own any livestock within the Town, except in areas zoned agricultural (AG), public (P) or planned development (PD) (if allowed pursuant to an approved outline development plan). Animal ratios in the public and planned development zone districts are allowed as follows:~~

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| <del>One (1) horse per one half (½) acre; or<br/>One (1) cow per one half (½) acre; or<br/>One (1) llama per one half (½) acre.</del> | <del>Two (2) pigs per one half (½) acre; or<br/>Two (2) sheep per half (½) acre; or<br/>Two (2) alpacas per half (½) acre.</del> |
| <del>Six (6) ducks/chickens/fowl per one half (½) acre.</del>   | <del>Two (2) goats per one half (½) acre</del>   |

- ~~(b) Notwithstanding the foregoing, chickens and ducks may be kept on single family residential lots within the Town, subject to permitting and to compliance with the regulations set forth in Section 7-7-35 of this Code and other applicable Town requirements.~~
  - ~~(c) Alleged domestication of any prohibited animal shall not affect its status under this Section.~~
  - ~~(d) Exceptions. Subsection (a) of this Section shall not be applicable to any bona fide zoological garden or any circus or carnival licensed by the Town or any state licensed wildlife rehabilitator, organization or individual who performs wildlife rescue and rehabilitation and is permitted with the Town.~~
  - ~~(e) Confinement. The animal control officer will have the authority to apprehend any livestock, wild, exotic or dangerous animal that may be at large within the Town. Such livestock, wild, exotic or dangerous animal may be impounded, released in wild areas outside of the Town which are representative of the animal's natural habitat or released to an appropriate keeper or humanely destroyed when the animal control officer in his or her discretion shall determine such, subject to applicable state law.~~
- ~~(Ord. 706-20, §1(Exh. A), 3-24-2020)~~

### **~~Sec. 7-7-35. Keeping of domestic chickens and ducks; quantity restricted; permit required.~~**

- ~~(a) Keeping of chickens and ducks. Domestic chickens and ducks may be kept on single family residential parcels, subject to obtaining a permit as required by Subsection (c) and compliance with all of the requirements set~~

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forth in this Section. For purposes of this Section, a single family residential lot is a lot or tract of land having as its sole primary use one (1) detached single family dwelling.

(b) ~~Regulations. The following regulations apply to the keeping of chickens and ducks:~~

- ~~(1) Number; roosters, drakes prohibited. No more than six (6) domestic ducks or six (6) domestic chickens (or any combination thereof as long as the total number does not exceed six (6)) are permitted per residential tract. Roosters and drakes are not permitted.~~
- ~~(2) Shelter requirements. Ducks and chickens must be provided with a covered, predator resistant shelter that is properly ventilated and heated, with nesting boxes, designed to be easily accessed, cleaned and maintained, and that provides at least two (2) square feet per duck or chicken. The shelter shall not exceed one hundred twenty (120) square feet.~~
- ~~(3) Location of facilities. Duck and chicken facilities shall be located in the rear or backyard of the lot. They shall not be located between the rear of the structure and the front yard lot line. Ducks and chickens shall be kept within such facilities and are not permitted within any other portions of the lot.~~
- ~~(4) Access during daylight hours. During daylight hours, the ducks and chicken must have access to the shelter and to an outdoor enclosure, located adjacent to the shelter that is adequately fenced to protect them from predators.~~
- ~~(5) Shelter from dusk to dawn. The ducks and chickens must be further protected from predators by being closed in the shelter from dusk to dawn.~~
- ~~(6) Setbacks. Neither the shelter or the outdoor enclosure may be located less than fifteen (15) feet from any abutting property line unless the owner or keeper of the ducks and chickens obtains written consent of the owner(s) of all abutting properties to which the enclosure is proposed to be more closely located; in which event, the agreed-upon location shall then be deemed acceptable notwithstanding any subsequent change in ownership of such abutting property or properties.~~
- ~~(7) Fencing. In addition to the shelter described above, chickens and hens shall be confined to areas that are fully enclosed with adequate perimeter fencing to prevent the ducks and chickens from escaping when not in their shelters and to prevent predators' entry and from coming into contact with wild ducks, geese or their excrement. Fences required by this Subsection shall comply with the provisions of Section 16-2-790 of this Code and shall be resistant to predators. Adequate fencing material for purpose of this Subsection shall include wood, wire and stone. Split rail fences will not be deemed adequate for purposes of this Subsection.~~
- ~~(8) Water. Water must be available at all times in adequate receptacles.~~
- ~~(9) Food. Sufficient nutritive food must be provided daily and must be stored in a resealable, airtight, metal, rodent proof container to discourage attracting mice, rats, and other vermin.~~
- ~~(10) Cleanliness. The shelter and surrounding area must be kept clean from accumulation of excrement and debris so as to not create a nuisance.~~
- ~~(11) Odors prohibited. All coops and runs shall be regularly cleaned and maintained to control dust, odor, and waste and to prevent the facilities from constituting a nuisance, safety hazard, or health problem to surrounding properties. Odors associated with the coop shall be contained within the owner's property boundary.~~
- ~~(12) Slaughtering prohibited. The ducks and chickens may not be slaughtered killed by, or at the direction of, the owner or keeper thereof except pursuant to the lawful order of State or County health officials or for the purpose of euthanasia when surrendered to a licensed veterinarian or Humane Society. Dead animal carcasses shall be properly disposed of within 24 hours.~~

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- (c) ~~Annual permit required. Any person keeping chickens or ducks pursuant to this Section must first have been issued a permit by the Town Administrator. Permitting is subject to the following requirements:~~
- (1) ~~The application shall be on a form provided by the Town and shall include a plan or drawing showing the proposed locations of all chicken or duck facilities to be located upon the parcel for which the permit is requested. Such plan or drawing shall include details demonstrating the applicant's proposed manner of compliance with the requirements of this Section.~~
  - (2) ~~Prior to the issuance of a permit, the Town Administrator may inspect the parcel for which the permit is requested.~~
  - (3) ~~A permit issued pursuant to this Section shall allow the keeping of chickens or ducks on the specific property identified in the permit. The permit shall be personal to the permittee and is non-transferrable.~~
  - (4) ~~A permit issued pursuant to this Section must be renewed annually. A fee shall be charged for each new permit and each annual renewal permit, which fee shall be set by resolution of the Board of Trustees from time to time.~~
- (d) ~~Nuisance free facilities as prerequisite. A permit to keep ducks or chickens within the Town shall not be granted or renewed unless the owner or keeper provides facilities which will reasonably assure the Town Administrator that the premises will be maintained in a sanitary condition, free from insects and rodents, offensive odors, excessive noise or any other conditions which constitute a public nuisance.~~
- (e) ~~Denial or revocation of permit. The Town Administrator may deny or revoke a permit to keep, maintain or possess fowl within the Town if the Town Administrator determines that any provision of this Section is being violated or if the Town Administrator finds that maintenance of fowl interferes with the reasonable and comfortable use and enjoyment of property.~~
- (f) ~~Quarantine permitted. The Town Administrator is authorized to confiscate, quarantine, or destroy any chickens for the purpose of controlling the outbreak of contagious or infectious disease within the Town.~~
- (g) ~~Infectious disease. Nothing herein shall affect the authority of the State from enforcing the provisions of the Colorado Livestock Health Act, C.R.S. § 35-50-101, et seq., to control the outbreak of contagious or infectious disease among livestock in the Town by quarantine or slaughter.~~
- (h) ~~Expiration of permit. Any permit issued pursuant to this Section shall expire when the operation of the duck or chicken keeping has discontinued for twelve (12) months or more.~~
- (i) ~~Removal of shelter. Upon expiration, revocation or denial of a permit, all duck and chicken facilities shall be removed from the property within thirty (30) days of such expiration, revocation or denial.~~
- (j) ~~Penalties. Penalties for violation of any of the stipulations set forth in this Section will be one hundred dollars (\$100.00) for the first offense, one hundred fifty dollars (\$150.00) for the second offense, and revocation of the permit and removal of the chickens or ducks from the Town if a third offense occurs.~~

(Ord. 706-20, §1(Exh. A), 3-24-2020)

#### **~~Sec. 7-7-40. Keeping of hare or rabbit; quantity restricted; enclosure standards.~~**

- (a) ~~Keeping of rabbits and hares. It shall be unlawful for the owner of any hare or rabbit to fail to keep the hare or rabbit from running at large. Any owner who fails to comply with this Section will be in violation of Section 7-7-50 of this Article.~~
- (b) ~~Regulations. The following regulations apply to keeping hares and rabbits:~~
- (1) ~~No more than six (6) hares or rabbits are permitted per residential tract in the Town.~~

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- (2) ~~Enclosures/shelter requirements. Enclosures for housing rabbits in colonies must provide a minimum of ten (10) square feet of floor space per rabbit over four (4) months of age. Rabbits over six (6) weeks of age and under four (4) months of age must be provided a minimum of seven and one-half (7.5) square feet of floor space per rabbit.~~
- (3) ~~The minimum height for any hare or rabbit's enclosure is fifteen (15) inches.~~
- (4) ~~Enclosure must provide adequate ventilation to prevent odor build-up and to maintain appropriate ambient temperature for the rabbits.~~
- (5) ~~The floor of a hare or rabbit's enclosure must be constructed of material that prevents pododermatitis (foot problems) and that can be adequately cleaned. Mesh flooring must be small enough to prevent the hare or rabbit's feet from passing through and to prevent discomfort to the animal.~~
- (6) ~~Water. Water must be available at all times in adequate receptacles.~~
- (7) ~~Food. Sufficient nutritive food must be provided daily and must be stored in a resealable, airtight, metal, rodent proof container to discourage attracting mice, rats and other vermin.~~
- (8) ~~Cleanliness. Shelter and surrounding area must be kept clean from accumulation of excrement and debris so as to not create a nuisance, safety hazard, and health problem to surrounding properties.~~
- (9) ~~Slaughtering prohibited. The hare and rabbit may not be slaughtered or killed by, or at the direction of, the owner thereof except pursuant to the lawful order of state or county health officials or for the purpose of euthanasia when surrendered to a licensed veterinarian, humane society or shelter.~~
- (c) ~~Annual permit required. Any person keeping rabbits or hares pursuant to this Section must first have been issued a permit by the Town Administrator. Permitting is subject to the following requirements:~~
- (1) ~~The application shall be on a form provided by the Town and shall include a plan or drawing showing the proposed locations of all enclosures and shelters to be located upon the tract for which the permit is requested. Such plan or drawing shall include details demonstrating the applicant's proposed manner of compliance with the requirements of this Section.~~
- (2) ~~Prior to the issuance of a permit, the Town Administrator may inspect the parcel for which the permit is requested.~~
- (3) ~~A permit issued pursuant to this Section shall allow the keeping of rabbits or hares on the specific property identified in the permit. The permit shall be personal to the permittee and is non-transferrable.~~
- (4) ~~A permit issued pursuant to this Section must be renewed annually. A fee shall be charged for each new permit and each annual renewal permit, which fee shall be set by resolution of the board of trustees from time to time.~~
- (d) ~~Quarantine permitted. The Town Administrator is authorized to confiscate, quarantine, or destroy any hare or rabbit for the purpose of controlling the outbreak of contagious or infectious disease.~~
- (e) ~~Penalty. Any person convicted of violating this Section of this Article shall, upon conviction, be punished by a fine in accordance with general penalty provisions set forth in Section 1-4-20 of this Code.~~
- (Ord. 706-20, §1(Exh. A), 3-24-2020)

### **~~Sec. 7-7-45. Beekeeping.~~**

- (a) ~~Hives. All bee colonies shall be kept in inspectable type hives with removable combs, which shall be kept in sound and usable condition.~~

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- (b) ~~Setback. All hives shall be located at least five (5) feet from any adjoining property with the back of the hive facing the nearest adjoining property.~~
- (c) ~~Fencing of flyways. In each instance in which any colony is situated within ten (10) feet of a developed public or private property line of the tract upon which the apiary is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six (6) feet in height consisting of a solid wall or fence parallel to the property line and extending ten (10) feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six (6) feet above ground level over the property lines in the vicinity of the apiary.~~
- (d) ~~Water. Each beekeeper shall ensure that a convenient source of water is available at all times to the bees so that the bees will not congregate at swimming pools, bibcock's, pet water bowls, birdbaths or other water sources where they may cause human, bird or domestic pet contact. The water shall be maintained so as not to become stagnant.~~
- (e) ~~Maintenance. Each beekeeper shall ensure that no bee comb or other materials that might encourage robbing are left upon the grounds of the apiary site. Upon their removal from the hive, all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.~~
- (f) ~~Queens. In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to re-queen the colony. Queens shall be selected from stock bred for gentleness and non-swarming characteristics.~~
- (g) ~~Colony densities.~~
- (1) ~~It shall be unlawful to keep more than the following number of colonies on any tract within the Town, based upon the size or configuration of the tract on which the apiary is situated:~~
- a. ~~One quarter (¼) acre or less tract size—two (2) colonies;~~
- b. ~~More than one quarter (¼) acre but less than one half (½) acre tract size four (4) colonies;~~
- c. ~~One half (½) acre or more but less than one (1) acre tract size—six (6) colonies;~~
- d. ~~One (1) acre or larger tract size—eight (8) colonies;~~
- e. ~~Regardless of tract size, where all hives are situated at least two hundred (200) feet in any direction from all property lines of the tract on which the apiary is situated, there shall be no limit to the number of colonies.~~
- (2) ~~For each two (2) colonies authorized under colony densities, Subsection (g)(1) above, there may be maintained upon the same tract one (1) nucleus colony in a hive structure not exceeding one (1) standard nine and five-eighths (9 ⅝) inch depth ten (10) frame hive body with no supers attached as required from time to time for management of swarms. Each such nucleus colony shall be disposed of or combined with an authorized colony within thirty (30) days after the date it is acquired.~~
- (h) ~~Annual permit required. Any person keeping bees pursuant to this Section must first have been issued a permit by the Town Administrator. Permitting is subject to the following requirements:~~
- (1) ~~The application shall be on a form provided by the Town and shall include a plan or drawing showing the proposed locations of all hives to be located upon the tract for which the permit is requested. Such plan or drawing shall include details demonstrating the applicant's proposed manner of compliance with the requirements of this Section.~~
- (2) ~~Prior to the issuance of a permit, the Town Administrator may inspect the parcel for which the permit is requested.~~

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- (3) ~~A permit issued pursuant to this Section shall allow the keeping of bees on the specific property identified in the permit. The permit shall be personal to the permittee and is non-transferrable.~~
- (4) ~~A permit issued pursuant to this Section must be renewed annually. A fee shall be charged for each new permit and each annual renewal permit, which fee shall be set by resolution of the board of trustees from time to time.~~
- (i) ~~Prohibited. The keeping by any person of bee colonies in the Town not in strict compliance with this Section is prohibited. Any bee colony not residing in a hive structure intended for beekeeping, or any swarm of bees, or any colony residing in a standard or homemade hive which, by virtue of its condition, has obviously been abandoned by the beekeeper, is unlawful and may be summarily destroyed or removed from the Town of Bennett by the Town Administrator.~~
- (Ord. 706-20, §1(Exh. A), 3-24-2020)

### **~~Sec. 7-7-47. HOA covenants to apply to keeping of domestic chickens, ducks, hares and bees.~~**

~~If the property upon which the keeping of ducks, chickens, hares and bees proposed are within a covenant-controlled development, the requirements of Section 7-7-35, 7-7-40 and 7-7-45 shall be considered minimum requirements and said Section shall not limit the rights of any homeowner's association or similar covenant-based property owner's association to lawfully adopt and enforce more stringent covenants standards, including the outright prohibition of ducks, chickens, hares and bees for any property within the authority of such association. Nothing herein, including the issuance of a permit by the Town, shall allow the keeping of ducks, chickens, hares and bees where private covenants prohibit it.~~

### **~~Sec. 7-7-50. Running at large.~~**

- (a) ~~Prohibited. It shall be unlawful for the owner of any dog or other animal to fail to keep the dog or other animal from running at large within the Town. For the purposes of this Article, an animal shall be deemed running at large when such animal is not physically restrained as follows:~~
- (1) ~~When the animal is being restrained by tethering upon the premises of the owner or custodian, it must have a cord, leash or chain that is a minimum of six (6) feet in length. It must not be able to enter upon public property, including sidewalks, or the premises of another. Any animal off the premises of the owner or custodian shall be restrained by a leash, cord or chain a maximum of ten (10) feet in length, held by a person who is physically able to control the animal.~~
- (2) ~~No animal shall be deemed to be running at large when the animal is upon the premises of the owner or custodian and when the animal is contained on or restricted to the premises by fencing or other means secured by an adequate locking device.~~
- (3) ~~Any animal enclosed within the automobile or other vehicle of its owner or custodian shall be deemed to be upon the owner's or custodian's premises.~~
- (3) ~~No dog shall be deemed to be running at large when the dog is upon the premises of a Town dedicated off-leash dog park.~~
- (b) ~~Animal killed or injured on highway. Notwithstanding any provisions herein to the contrary, animals injured or killed on or along public streets or other rights-of-way shall be presumed to be running at large. The animal control officer shall remove all such animals and, at his or her discretion, take those needing medical attention to a veterinarian or to the Town's designated animal shelter. The owner of such animal shall be liable for all expenses of treatment and of impoundment; as well as any penalties which may be imposed for violation of this Section.~~

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- (c) ~~Unspayed females. Any unspayed female animal in the state of estrus (heat) shall be deemed to be running at large unless confined during such period of time within a house, building or other secure enclosure which shall be so constructed that no other animal of the opposite sex of the same species may gain access to the confined area unless intentionally admitted to such area by the confined animal's owner for breeding purposes. The animal control officer shall have the authority to order the owner to remove any unspayed female animal in the state of estrus (heat) to the type of confinement described in this Subsection and may furthermore require the animal to be confined to a boarding kennel or veterinary hospital of the owner's choice or to the Town's designated animal shelter for the duration of the estrus cycle. Any animal so confined to the Town's designated animal shelter shall not be disposed of as provided in Subsection 7-7-60(d). However, after notification that the animal is no longer in estrus and the animal is not redeemed after three (3) days, the owner is deemed to have abandoned the animal and Subsection 7-7-60(d) shall become applicable. All expenses that were incurred as a result of confinement shall be paid by the owner. Failure to comply with the confinement order of the animal control officer shall constitute a violation of this Section and the animal will then be impounded as set forth in Section 7-7-60 and its owner shall be subject to the penalty set forth in Subsection (d) of this Section.~~
- (d) ~~Penalty. Any person found guilty of violating this Section shall, upon the first conviction, be subject to the payment of a fine of not less than one hundred dollars (\$100.00), upon the conviction of a second offense involving the same animal shall be fined a sum not less than one hundred fifty dollars (\$150.00) and shall be required to spay or neuter and microchip the animal (unless the owner provides a written statement from a licensed veterinarian that the spay or neuter procedure would be harmful or dangerous to the health of the animal, or provides proof from a licensed veterinarian the dog has been altered prior to the violation), and upon the third and subsequent offenses shall be fined in an amount not less than three hundred dollars (\$300.00). The minimum monetary fines stated in this Subsection may not be suspended by the municipal court. Nothing in this Subsection shall be construed as preventing the animal control officer from instituting a proceeding in the municipal court for violation of this section where there has been no impoundment.~~

(Ord. 706-20, §1(Exh. A), 3-24-2020)

### **Sec. 7-7-60. Impoundment of animals; court proceedings; destruction of animals.**

- (a) ~~Any Animal Control Officer may go upon private property to capture and take into custody and impound at the Town's designated animal shelter any animal, or to investigate any report of, a violation of this Article if:~~
- ~~(1) The Animal Control Officer has obtained the consent of the person in possession of the property;~~
  - ~~(2) The Animal Control Officer has obtained a search warrant;~~
  - ~~(3) The Animal Control Officer is in pursuit of an animal which is or has been running at large;~~
  - ~~(4) The Animal Control Officer is in pursuit of an animal which the officer has probable cause to believe has bitten or attacked a person or another domestic animal; or~~
  - ~~(5) The Animal Control Officer is attempting to abate a continuing violation when the owner of the property is not available.~~

~~Nothing in Paragraphs (3), (4) or (5) above shall be deemed to authorize entry into any enclosed building on the private property. In addition to all other defenses and immunities provided by law, an Animal Control Officer making entry upon private property for the purpose of enforcing this Article is immune from suit or liability, criminal or civil, caused by or arising out of such entry.~~

- (b) ~~Any Animal Control Officer may take into custody and impound, pursuant to Subsection (a) above, any vicious animal found within the Town, whose owner has been issued a summons and complaint for the~~



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violation, or immediately if the animal has bitten or otherwise injured any person or another domestic animal.

- (c) ~~Upon serving of the third summons and complaint following two (2) convictions within one (1) year for public nuisance violations pursuant to Subsection 7-7-25 of this Article, or aggressive or dangerous animal pursuant to Section 7-7-80 of this Article, against the same animal, an Animal Control Officer may immediately take into custody and impound said animal pursuant to Subsection (a) above.~~
- (d) ~~Length of impoundment. If there is probable cause to believe that there is a violation of this Article, the animal may be taken into custody by the animal control officer or member of the policing agency and impounded in the Town's designated animal shelter in a humane manner. Except as otherwise provided in Subsection (h), such impoundment shall be for a period of not less than five (5) days, unless earlier claimed. If the owner fails to claim the impounded animal after five (5) days subsequent to being notified or reasonable efforts to notify have been made, the animal shall become the property of the Town and shall be disposed of in a humane manner at the discretion of the Town Administrator. The owner shall still be subject to all fees and costs.~~
- (e) ~~Any summons served for violation of this Article resulting in the impoundment of an animal shall require a mandatory court appearance of such animal's owner. Provided that the Town has evidence of outstanding costs incurred by the Town for the impound of animals pursuant to this Article, the Municipal Judge shall order restitution in such amount to cover the Town's outstanding costs, regardless of whether the owner claimed the animal from impoundment.~~
- (f) ~~The Town, Mayor, Board of Trustees, any Town officers, assistants and employees, or any other person authorized to enforce the provisions of this Article, shall not be held responsible for any accident or subsequent disease that may occur to the animal in connection with the administration of the provisions of this Article.~~
- (g) ~~Failure to produce animal. The owner of any animal subject to impoundment under Subsection (b) of this Article shall, on demand of the animal control officer, or other person who may be so authorized by the code, produce the animal for impoundment as prescribed in this Section. It shall be unlawful for the owner of any such animal to fail or refuse to produce the animal on demand. Any such failure or refusal shall subject the owner to immediate arrest, should probable cause exist to believe that the owner is harboring or keeping the animal and refuses to produce it upon such demand. Upon arrest, the owner shall be held to appear before a judge of the municipal court who may order the immediate production of the animal. Each day of such willful refusal to produce the animal shall constitute a separate violation and offense.~~
- (h) ~~Court findings; release of animal; destruction; surrender. If a complaint has been filed in the municipal court against the owner of an animal impounded for violation of this Article, the animal shall not be released from impoundment except on the order of the municipal judge. The municipal judge may, upon making a finding that the alleged owner has failed to appear for any court date on the complaint, order the animal to be surrendered to the Town of Bennett or destroyed in a humane manner.~~
- (i) ~~Court proceedings against animal owner. If a dog or other animal is impounded, the animal control officer or member of the policing agency may institute proceedings in the municipal court on behalf of the Town against the animal owner, if known, charging the owner with a violation pursuant to this Article. Nothing in this Section shall be construed as preventing the animal control officer, a member of the policing agency or any other person who may be authorized pursuant to this Code from instituting a proceeding in the municipal court for violation pursuant to this Article, when there is probable cause to believe that the violation occurred but where there has been no impoundment.~~
- (j) ~~Payment of fees prior to animal's release. Subject to Subsections (h) and (i) pursuant to this Article, any impounded animal may be redeemed by the owner upon prior payment of the impound fee, if the animal was not voluntarily impounded by the owner; boarding fees; veterinary charges, if any; and such other costs assessed incidental to the impoundment of the animal.~~

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(k) ~~Fails to pay fees; penalty. The refusal to redeem any impounded animal by the owner thereof shall not relieve the owner of the duty to pay the impoundment, boarding and veterinary charges that may be assessed. The owner of any animal who fails or refuses to pay such fees and charges shall be in violation of this Article and may be summoned and be subject to the penalty provided in Section 1-4-20 of this Code and subject to the requirements and limitations of C.R.S. § 18-1.3-702, upon conviction of violation of this Article.~~

(Ord. 706-20, §1(Exh. A), 3-24-2020)

### **~~Sec. 7-7-65. Service animals.~~**

(a) ~~Service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.~~

(b) ~~Service animals are subject to the licensing requirements set forth in this Article.~~

(Ord. 706-20, §1(Exh. A), 3-24-2020)

### **~~Sec. 7-7-70. Licensing of dogs and cats.~~**

(a) ~~License required. Any owner of a domesticated dog or cat kept as a household pet or working within the Town shall obtain a one-year or a three-year animal license from the Town or its designated agents, for each animal over the age of six (6) months. No license shall be issued until the applicant for the license provides proof of current vaccination for rabies as required in this Article.~~

(b) ~~Assessment of fees. An animal license fee for domesticated dogs and cats kept as household pets shall be assessed pursuant to the Town of Bennett schedule of fees. Licensing fees shall be waived for any dog or cat being fostered for an animal rescue organization licensed by the State pursuant to the Pet Animal and Facilities Act. Any person requesting a fee waiver on such basis shall submit documents supporting such request at the time of licensing.~~

(c) ~~Expiration and renewal. A one-year animal license shall expire twelve (12) months from the date of issuance. A three-year animal license shall expire thirty-six (36) months from the date of issuance. An animal license may be reissued upon payment of fees as stated in Subsection (b) of this Section.~~

(d) ~~License tags. It is the responsibility of any owner, keeper or possessor of a domesticated dog or cat kept as a household pet or working within the Town to cause such animal to wear at all times a metal tag bearing the legible number of a current license issued for such animal as provided for in this Section. At any trial concerning a violation charged under this Section, the absence of such tags shall be prima facie evidence that such animal was not properly licensed.~~

(e) ~~Penalty. Any person convicted of violating this Section of this Article shall, upon conviction, be punished by a fine in accordance with general penalty provisions set forth in Section 1-4-20 of this Code.~~

(Ord. 706-20, §1(Exh. A), 3-24-2020)

### **~~Sec. 7-7-75. Rabies control.~~**

(a) ~~Inoculation. Any animal lawfully kept as a household pet or working in the Town which is capable of transmitting rabies shall be inoculated against rabies by a licensed veterinarian before attaining the age of four (4) months unless the owner presents to the Town a written statement from a licensed Colorado veterinarian that vaccination for rabies would be detrimental to the health of the specific animal. Such vaccination shall be kept current at all times with booster shots administered by a licensed veterinarian on or~~

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before the appropriate anniversary date of the initial inoculation. The owner acquiring such animal without current rabies inoculation and tag shall have such animal inoculated against rabies within thirty (30) days after the acquisition or when the animal reaches four (4) months of age. The owner or custodian of any animal required by this Section to be inoculated against rabies shall keep a current rabies tag securely attached to the animal at all times. Such tag shall contain the year of the vaccination.

- (b) ~~Biting animals; quarantine. The owner of any dog or other animal required by this Section to be inoculated against rabies that has bitten any person or other animal shall immediately notify an animal control officer. Any dog or other animal covered by this Section that has bitten any person or any other animal or that has been exposed to another animal which is believed to have rabies shall be immediately confined and observed for a period of no fewer than ten (10) days from the date of the bite or exposure. It shall be unlawful for the owner of any dog or other animal that has bitten any person or other animal or that has been exposed to an animal that is believed to have rabies to destroy such animal before it can be properly confined and observed under the supervision of the animal control officer. Such confinement may be on the premises of the owner if deemed an appropriate and sufficient safeguard in the discretion of the animal control officer. If not on the owner's premises, the confinement shall be at the Town's designated animal shelter or any licensed veterinary hospital of the owner's choice. Such confinement shall be at the sole expense of the owner.~~
- (c) ~~Removal from quarantine. It shall be unlawful for any person to remove from any place of quarantine any animal which has been quarantined pursuant to this Section, without the express consent of the animal control officer.~~
- (d) ~~Diagnosis by veterinarian.~~
  - (1) ~~When an animal under quarantine has been diagnosed by a licensed veterinarian as being rabid, the veterinarian making such diagnosis shall immediately notify the Colorado Department of Public Health and Environment and advise it of any reports of human contact with such rabid animal. The Colorado Department of Public Health and Environment shall then, pursuant to its rules and procedures, humanely destroy such rabid animal.~~
  - (2) ~~If any animal under quarantine dies while under observation and before a diagnosis has been made, the animal control officer shall immediately take action to notify the Colorado Department of Public Health and Environment which will take action to obtain a pathological and inoculation examination of the animal.~~
  - (3) ~~If, after the ten (10) day or longer confinement and observation period provided for in this Section, the dog or other animal has not been diagnosed by a licensed veterinarian as having rabies, the quarantined animal shall be released from confinement by the animal control officer upon payment of all impoundment and other quarantine fees, unless the animal is being held pursuant to Section 7-7-60 of this Article.~~
- (e) ~~Penalty. Any person convicted of violating Section 7-7-90, 7-7-100 or 7-7-110 of this Article shall, upon conviction, be punished by a fine in accordance with general penalty provisions set forth in Section 1-4-20 of this Code.~~

(Ord. 706-20, §1(Exh. A), 3-24-2020)

### **~~Sec. 7-7-80. Keeping aggressive or dangerous animals.~~**

- (a) ~~Prohibited. It shall be unlawful for any person to keep or harbor an aggressive or dangerous animal. Where there is more than one (1) owner of an aggressive or dangerous animal, such owners shall be jointly and severally liable for violations of this Section. Police dogs or those in training or guard dogs, as defined in~~

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~~Section 7-7-10 of this Article and kept in compliance with Section 7-7-110 of this Article, shall not be included under this definition.~~

- ~~(b) An Animal Control Officer may take into custody and impound at the Town's designated animal shelter any aggressive, or dangerous animal when reasonably necessary to protect his or her person or members of the public from injury or damage.~~
- ~~(c) It is a specific defense to the charge of owning an aggressive or dangerous animal that the threatened person or animal:
  - ~~(1) Provoked, tormented, abused or inflicted injury upon the animal in such a manner as to result in the attack.~~
  - ~~(2) Made unlawful entry into a vehicle in which the animal was confined.~~
  - ~~(3) Attempted to assault another person.~~~~
- ~~(d) Any person convicted of violating this Section shall be punished by the fines set forth in accordance with the general penalty provisions set forth in Section 1-4-20 of this Code.~~
- ~~(e) Aggressive animals; penalty. Any person convicted of violating Section 7-7-80 of this Article shall, upon conviction, be punished by a fine in accordance with general penalty provisions set forth in Section 1-4-20 of this Code.~~

~~(Ord. 706-20, §1(Exh. A), 3-24-2020)~~

#### **~~Sec. 7-7-90. Vicious animals.~~**

- ~~(a) No person shall own a vicious animal within the Town. Where there is more than one (1) owner of a vicious animal, such owners shall be jointly and severally liable for violations of this Section. Police dogs or those in training or guard dogs, as defined in Section 7-7-10 of this Article and kept in compliance with Section 7-7-110 of this Article, shall not be included under this definition.~~
- ~~(b) An Animal Control Officer may take into custody and impound at the Town's designated animal shelter any animal that is vicious, and may take whatever action is reasonably necessary to protect his or her person or members of the public from injury or damage, including immediate destruction of any vicious animal without notice to the owner.~~
- ~~(c) It is a specific defense to the charge of owning a vicious animal that the injured or threatened person or animal:
  - ~~(1) Provoked, tormented, abused or inflicted injury upon the animal in such a manner as to result in the attack or bite.~~
  - ~~(2) Made unlawful entry into or upon a fenced or enclosed portion of the premises upon which the animal was lawfully kept or upon a portion of the premises where the animal was lawfully chained with the intent to commit a crime other than trespass.~~
  - ~~(3) Made unlawful entry into a vehicle in which the animal was confined.~~
  - ~~(4) Attempted to assault another person.~~~~
- ~~(d) For the purposes of this Section, a person is lawfully upon the premises of an owner when such person is on the premises in the performance of any duty imposed by law or by the express or implied invitation of the owner of such premises or the owner's agent.~~

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~~(e) Penalty. Any person convicted of violating Section 7-7-90, 7-7-100 or 7-7-110 of this Article shall, upon conviction, be punished by a fine in accordance with general penalty provisions set forth in Section 1-4-20 of this Code.~~

~~(Ord. 706-20, §1(Exh. A), 3-24-2020)~~

### **~~Sec. 7-7-100. Keeping of vicious animals.~~**

~~(a) Upon a plea of guilty or conviction by the Municipal Court that an animal is vicious, if such animal is not ordered destroyed, the owner shall comply with each of the following requirements. Any failure of the owner of an animal found to be vicious to comply with the requirements of this Section may result in prosecution under this Section and may subject the owner to possible impound and destruction of the animal.~~

~~(b) The owner of the animal must be eighteen (18) years of age or older and shall, within ten (10) days of the finding that the animal is vicious, register the animal with the Town Clerk as a vicious animal. At that time, the owner must provide evidence of the following in a form acceptable to the Town Clerk or designee thereof:~~

~~(1) That the animal has been spayed or neutered;~~

~~(2) That an identification microchip has been implanted in the animal; and~~

~~(3) That the owner has procured liability insurance in a minimum amount of one hundred thousand dollars (\$100,000.00) to cover any damages caused or which may be caused by the vicious animal during the calendar year or during the period covered by the license required by this Article.~~

~~(c) When the animal is not under the direct control of the owner, the owner shall cause the vicious animal to be confined indoors or placed and kept in a proper secure enclosure. At all times when the vicious animal is away from the property of the owner, the owner shall keep the vicious animal muzzled and securely leashed with a leash no greater than four (4) feet in length and held by a person capable of restraining the animal or in a secure temporary enclosure.~~

~~(d) The owner shall post at each possible entrance to the property where the vicious animal is kept a conspicuous and clearly legible sign warning there is a vicious animal on the property. Such sign must be at least eight (8) inches by ten (10) inches and shall contain only the words "vicious animal" not less than two (2) inches in height.~~

~~(e) The owner shall notify the Town Clerk within (5) five calendar days of any change in address or in the event that the vicious animal is lost, stolen, otherwise missing or dies. The owner of a vicious animal who transfers ownership of the animal must notify the Town Clerk of the same and provide the name, address and telephone number of the new owner. The owner additionally is required to inform the new owner that the animal has been found to be a vicious animal and that the new owner must comply with the requirements of this Section within ten (10) days of acquiring the animal. It shall be unlawful for the new owner to fail to comply with the requirements of this Section within ten (10) days of receipt of the animal, even if such notification by the prior owner has not been made.~~

~~(Ord. 706-20, §1(Exh. A), 3-24-2020)~~

### **~~Sec. 7-7-110. Guard dogs.~~**

~~(a) No person shall own or employ a guard dog in any area of the Town unless the following conditions are met:~~

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- (1) ~~All guard dogs within the Town shall be registered with the Animal Control Officer and meet all requirements of this Code.~~
- (2) ~~The owner or other person in control of the premises upon which a guard dog is maintained shall post warning signs on, over or next to all exterior doors stating that such a dog is on the premises. Such signs shall be visible from the curb line or at a distance of fifty (50) feet, whichever is less, and shall contain a telephone number where some person responsible for controlling such guard dog can be reached twenty-four (24) hours a day.~~
- (3) ~~Prior to placing any guard dog on any property within the Town, the person responsible for such placement shall in writing inform the Town, the Policing Agency and the Fire Department of his or her intention to post the dog; the number of dogs to be posted; the approximate length of time the dog will be guarding the area; the daily hours the dog will be guarding the area; the breed, sex and age of the dog; and the rabies tag number of the dog. Such notice must be renewed every six (6) months.~~
- (b) ~~Any failure to comply with the requirements of this Section may result in prosecution for prohibited ownership of an aggressive or vicious animal pursuant to Sections 7-7-80 or 7-7-90 of this Article.~~
- (Ord. 706-20, §1(Exh. A), 3-24-2020)

### **Sec. 7-7-150. Humane care.**

- (a) ~~Generally. Each animal shall be adequately supervised by the owner and controlled so as to prevent injury, diseases or neglect. Sick or injured animals shall be provided with veterinary care and controlled in a manner that provides for the health and comfort of the animal at all times.~~
- (b) ~~Standards. Every owner, agent, lessee, tenant or occupant of any premises where any animal is kept, shall ensure all equipment, buildings and facilities are constructed and maintained to not less than the following standards:~~
- (1) ~~Structural strength. Housing facilities or shelters for animals shall be structurally sound and able to contain the animals and shall be maintained in good repair to protect the animals from injury, adverse weather, safety or health hazards.~~
- (2) ~~Water. Adequate and potable water shall be available to the animals at all times unless veterinary orders indicate to the contrary. Watering receptacles shall be kept clean.~~
- (3) ~~Electric power. Reliable and adequate electric power shall be provided if required for lighting or heating.~~
- (4) ~~Storage. Supplies of feed and bedding shall be stored and protected against infestation or contamination by vermin or decaying organic matter.~~
- (5) ~~Cleaning of pet shops, kennels, cages, facilities and surrounding premises. In pet shops, kennels, cages, facilities and surrounding premises, waste material shall be removed as often as necessary to prevent contamination and to reduce disease, hazards and odors.~~
- (6) ~~Ventilation. Cages, corrals, kennels, stables, stalls, facilities and shelters shall be ventilated to provide for the health and comfort of the animals at all times. Animals shall be provided with fresh air, either by means of windows, doors or vents, which shall be ventilated so as to minimize draft, odors and moisture condensation.~~
- (7) ~~Lighting. Where lighting is required, such lighting shall provide uniformly distributed illumination of sufficient intensity to permit routine inspection and cleaning during inspections or working periods.~~
- (8) ~~Heating. The ambient temperature shall be consistent with the health requirements of the animals.~~

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(9) ~~Cages, corrals, kennels, stables, stalls or any other enclosures. Cages or enclosures shall be structurally sound to contain the animal and shall be maintained in good repair to protect the animal from injury and any adverse conditions. Enclosures shall provide sufficient space to meet the conditions and size of the animal and allow the animal to turn about freely and to easily stand and lie in a comfortable, normal position.~~

(10) ~~Housekeeping. All facilities shall be kept clean and in good repair in order to protect the animals from injury and disease and to facilitate good animal husbandry, and the owner shall keep surrounding areas free of accumulations of trash, debris and waste.~~

(11) ~~Excrement. It shall be unlawful for the owner of any dog or other animal not to immediately remove excrement deposited by such animal upon a common thoroughfare, street, sidewalk, play area, and park or upon any other public property. Animal excrement shall not be placed in storm sewers or street gutters, but shall be disposed of in a sanitary manner. It shall also be unlawful under this Article to permit excessive excrement to accumulate on any property to the degree that it becomes offensive or injurious to health.~~

(12) ~~Feeding. Each animal shall be fed food of a sufficient quantity and of good nutritive quality to meet the normal daily requirements according to size and needs of the animal. Food receptacles shall be located for easy accessibility to the animal and to minimize contamination from trash, debris and waste.~~

(13) ~~Fencing. All fencing requirements shall comply with Chapter 16, Section 16-2-790.~~

(Ord. 706-20, §1(Exh. A), 3-24-2020)

### **Sec. 7-7-200. Cruelty; mistreatment to animals.**

(a) ~~Cruelty. It shall be unlawful for any person to commit cruelty to animals. A person commits cruelty to animals if he or she knowingly or with criminal negligence overdrives, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, needlessly mutilates, needlessly kills or, having the charge or custody of any animal, fails to provide it with proper food, drink or protection from the weather or abandons it.~~

(b) ~~Open vehicle. No person who owns or has control of any animal shall allow such animal to ride in any open motor vehicle or vessel in such a manner as to permit injury to the animal. For purposes of this Subsection, the operator of a motor vehicle shall be deemed to have control of any animals riding therein. Factors to be considered by the court shall include, but are not limited to, the following:~~

(1) ~~Transporting any animal in an open truck or any motor vehicle or vessel in such a manner as to permit an animal to jump or be thrown therefrom by acceleration of, stopping of or accident involving the vehicle.~~

(2) ~~Weather conditions and temperature of the vehicle.~~

(3) ~~Tethering or securing any animal in such a way that it may be thrown from the vehicle by acceleration of, stopping of or accident involving the vehicle. This Subsection shall not apply to the owner or controller of such animal if such animal is confined to a cage or enclosure of adequate construction to prevent its escape therefrom and provides proper ventilation.~~

(c) ~~Care of confined animal. Except as authorized by law, no animal shall be confined without an adequate supply of food and water. If any animal is found to be confined without adequate food or water, it shall be lawful for any policing agency or animal control officer, from time to time as may be necessary, to enter into and upon any area or building where such animal is confined and supply it with adequate food and water in accordance with the procedures found in Section 7-7-20. If such animal is not cared for by a person other than an animal control officer within twenty four (24) hours of the posting of notification as described in~~

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~~Section 7-7-20, such animal shall be presumed to have been abandoned under circumstances in which the animal's life or health is endangered.~~

- ~~(d) Endangering animal's health or life. No animal shall be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered. The term "mistreatment," "neglect" or "abandoned" are as defined in Section 7-7-10.~~
- ~~(e) Poisoning. It shall be unlawful for any person to poison any animal or to distribute poison in any manner whatsoever with the intent to or for the purpose of poisoning any animal; provided, however, for the purpose only of this Subsection, the term "animal" shall not include bats, mice, rats, or other rodents approved by state law, but shall include hamsters, guinea pigs, rabbits and squirrels. The distribution of any poison or poisoned meat or food, other than those specifically for insect or bat, mouse, rat, or other rodent poisoning, shall be prima facie evidence of violation of this Subsection.~~
- ~~(f) Harassing birds. It shall be unlawful for any person within the Town to at any time willfully frighten, shoot at, wound, kill, capture, ensnare, net, trap or in any other manner harass or injure any bird, fowl or water fowl or in any manner willfully molest or injure the nest, eggs or young of any such bird, fowl or water fowl.~~

~~(Ord. 706-20, §1(Exh. A), 3-24-2020)~~



**ORDINANCE NO. 756-22**

**AN ORDINANCE ADOPTING A NEW CHAPTER 9 OF THE BENNETT MUNICIPAL CODE CONCERNING ANIMAL CONTROL**

**WHEREAS**, the Board of Trustees previously adopted Chapter 7, Article VII of the Bennett Municipal Code concerning animal control; and

**WHEREAS**, the Board of Trustees desires to relocate such provisions to a new Chapter 9 of the Bennett Municipal Code.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BENNETT, COLORADO:**

**Section 1.** Chapter 9 of the Bennett Municipal Code is hereby adopted as set forth in Exhibit A, attached hereto and incorporated herein by reference.

**Section 2.** If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 3.** The repeal or modification of any provision of the Municipal Code of the Town of Bennett by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

**Section 4.** All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

**INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED  
BY TITLE ONLY THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2022.**

TOWN OF BENNETT, COLORADO

\_\_\_\_\_  
Royce D. Pindell, Mayor

ATTEST:

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Christina Hart, Town Clerk

## **Exhibit A**

### **CHAPTER 9**

#### **Animal Control**

|              |  |
|--------------|--|
| Sec. 9-1-10  | Definitions  |
| Sec. 9-1-15  | Excessive number prohibited  |
| Sec. 9-1-20  | Inspection and enforcement powers  |
| Sec. 9-1-25  | Public nuisance  |
| Sec. 9-1-27  | Keeping of barking dogs  |
| Sec. 9-1-30  | Keeping of wildlife, exotic animals, or livestock                              |
| Sec. 9-1-35  | Keeping of domestic chickens and ducks; quantity restricted; permit required   |
| Sec. 9-1-40  | Keeping of hare or rabbit; quantity restricted; enclosure standards            |
| Sec. 9-1-45  | Beekeeping   |
| Sec. 9-1-47  | HOA covenants to apply to keeping of domestic chickens, ducks, hares and bees. |
| Sec. 9-1-50  | Running at large   |
| Sec. 9-1-60  | Impoundment of animals; court proceedings; destruction of animals.             |
| Sec. 9-1-65  | Service animals  |
| Sec. 9-1-70  | Licensing of dogs and cats   |
| Sec. 9-1-75  | Rabies control   |
| Sec. 9-1-80  | Keeping aggressive or dangerous animals  |
| Sec. 9-1-90  | Vicious animals  |
| Sec. 9-1-100 | Keeping of vicious animals   |
| Sec. 9-1-110 | Guard dogs   |
| Sec. 9-1-150 | Humane care  |
| Sec. 9-1-200 | Cruelty; mistreatment to animals   |

#### **Sec. 9-1-10. Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

*Abandoned* means the leaving of an animal without adequate provisions for the animal's proper care by its owner or any person responsible for the animal's control or custody or having possession of such animal.

*Aggressive or dangerous animal* shall mean any animal that, without provocation, threatens to attack a human being or domestic animal; or without provocation, chases or approaches a person upon the streets, sidewalks, or other areas open to the public, in a menacing fashion, or has a known propensity, tendency, or disposition to attack without provocation; or an animal causing an injury to a person or domestic animal that is less severe than a bodily injury or serious injury, including slight puncture wounds, slight abrasions, or other superficial wound caused by the animal's teeth or claws.

*Animal* means a living organism other than a plant or bacterium. Animal in this Article includes arthropods, amphibians, reptiles, birds, and mammals. As used in this Article, the term "animal" excludes humans.

*Animal Control Officer* means any employee of the Town, including the Community Service Officer, any employee of the Town's designated animal shelter or any member of the County Sheriff's Office whose job duties include the enforcement of the terms of this Article.

*Animal grooming service* means any place or establishment where animals are kept less than twenty-four (24) hours to be clipped, combed or otherwise groomed for compensation for the purpose of enhancing their appearance, aesthetic value or health.

*Animal, spayed/neutered* means any animal upon which any neutering procedure has been performed by a licensed veterinarian and accompanied by a certificate asserting such operation or other procedure has been performed.

*Apiary* means a place where bee colonies are kept.

*Bee* means any stage of the common domestic honey bee, *apis mellifera* species.

*Bodily injury* means any physical injury that results in severe bruising, severe muscle tears, or severe skin lacerations requiring professional medical treatment or any physical injury that requires sutures, or corrective or cosmetic surgery.

*Cat* means any animal of the species *Felis domesticus*.

*Colony* means a hive and its equipment and appurtenances, including bees, comb, honey, pollen, and brood.

*Dog* means any animal of the species *Canis familiaris*.

*Dog kennel* means any facility for housing, boarding, harboring, training or breeding where more than three (3) dogs that are four (4) months of age or older are kept.

*Guard dog* means any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog that is either securely enclosed within the area at all times or under the continuous control of a trained handler.

*Household pet* means any domesticated animal commonly kept in the primary residence. Household pets include dogs, domestic cats, domestic caged birds, canaries, parrots, potbellied pigs, rabbits, hamsters, guinea pigs and similar rodents, fish, and reptiles so long as such animals are not kept to supplement food supplies or for any commercial purpose whatsoever. Household pet does not include livestock.

*Livestock* means any chickens, ducks, geese, turkeys, peafowl, peacocks or other domestic fowl, hogs, pigs (except pot-belly pigs), swine, sheep, goats, cattle, horses, mules, llamas or other animals raised or kept for profit or production.

*Microchip* means an electronic transponder intended for the subcutaneous insertion into an animal for the use of identification.

*Mistreatment* means an act or omission which causes or unreasonably permits the continuation of unnecessary abuse or unjustifiable pain or suffering.

*Neglect* means failure to provide food, water, protection from the elements or other care generally considered to be normal, usual and accepted for an animal's health and wellbeing consistent with the species, breed and type of animal.

*Owner* means any person in possession of, harboring, keeping or having custody, financial or property interest or control of any animal.

*Pet shop* means any business engaged in buying, selling, trading or bartering for resale or wholesale pet animals to consumers, brokers, commissioned merchants or any middleman.

*Police dog* means a currently registered and certified canine police dog that is either in training or on active duty status with a law enforcement agency within the State.

Pot-bellied pig is a dwarf swine breed between 70 and 150 pounds, with a straight tail, potbelly and swayback.

*Pot-bellied pig* means a dwarf swine breed between 70 and 150 pounds, with a straight tail, potbelly and swayback.

*Premises of the owner* means the residence of the owner, including the attached property surrounding the residence that is leased or owned by the owner, but not including any common area, park or recreational property jointly owned or leased by the members of a homeowners' or tenants' association.

*Quarantine* means a state, period or place of isolation in which an animal is observed for a period of no fewer than ten (10) days from the date of bite or exposure to a contagious disease. Running at large means an animal off or away from the premises of the owner, and not under the control of such owner or an agent, servant or member of the immediate family, either by leash, cord or chain.

*Serious injury* means bodily injury, which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or results in breaks, fractures, or burns of the second or third degree.

*Service animal* means a dog that is individually trained to do work or perform tasks for people with disabilities. A miniature horse may qualify as a service animal under the circumstances

set forth in the American with Disabilities Act (ADA) regulations. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals.

Town's designated animal shelter means any premises designated by the Town Administrator for the humane boarding and caring for any animal impounded under this Article or any other ordinance or laws of the state.

*Veterinary clinic* means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

*Vicious animal* means any animal that, without provocation, bites or attacks a person or another domestic animal, either on public or private property.

*Wildlife* means any animal that exists in a natural wild state in its place of origin, presently or historically, except those species determined to be domestic animals or livestock by this Article.

#### **9-1-15. Excessive number prohibited.**

It shall be unlawful for any person to keep or harbor more than four (4) dogs or four (4) cats or (2) pot-bellied pigs or a combination thereof that shall not exceed a total of four (4) animals, that are four (4) months of age or older on any premises within the Town of Bennett. Only one (1) litter of offspring may be kept on the premises until the age of six (6) months. Exceptions are licensed kennels, veterinary clinics, pet shops, animal grooming services and shelters.

#### **Sec. 9-1-20. Inspection and enforcement powers.**

(a) Any animal control officer, any policing agency or other person who may be so authorized by the code is hereby authorized to issue a summons and complaint to any person when said officer personally observes a violation of the provisions of this Article, or when information is received from any person who has personal knowledge that an act or acts which are made unlawful by the provisions of this Article have occurred. The penalty assessment procedure provided in the Colorado Municipal Court rules of procedure (mail-in fines) may be followed, as permitted by law, by the animal control officer, provided that a mandatory court appearance will be required of the owner whenever an animal is impounded as provided in this Article.

(b) Interference unlawful. It shall be unlawful for any person to interfere with, harass, hinder or obstruct the animal control officer or any other Town employee or official in the discharge of official duties under this Article.

(c) Inspection procedure. Whenever it becomes necessary to make an inspection to enforce any of the provisions of or to perform any duty imposed by this Article or other applicable law or whenever the animal control officer or authorized representative has reasonable cause to believe that there exists in any building or upon any premises any violation of the provisions of this Article or other applicable law, the animal control officer or authorized representative is authorized to enter such property at any reasonable time and to inspect the property and perform any duty imposed upon the animal control officer by this Article or by other applicable law, provided that:

(1) If such property is occupied, the animal control officer shall first present proper credentials to the occupant and request and obtain permission for entry, explaining the reasons therefor; or

(2) If such property is unoccupied, the animal control officer shall first make a reasonable effort to locate the owner or other person having charge or control of the property and request entry, explaining the reasons therefor. If such entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after due diligence, the animal control officer or authorized representative shall have recourse to every remedy provided by law to secure lawful entry and inspect the property. Notice of the entry shall be given by posting such notification at an entrance to or at a conspicuous place upon such area or building where such animal is confined.

(d) Immediate inspection. Notwithstanding Subsection (c) of this Section, if the animal control officer or authorized representative has reasonable cause to believe that the keeping or the maintaining of any animal is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the animal or the public health or safety, the animal control officer, after first notifying the Town Administrator, shall have the right to immediately enter and inspect such property and may use any reasonable means required to effect such entry and make such inspection, whether such property is occupied or unoccupied and whether or not permission to inspect has been obtained. If the property is occupied, the animal control officer shall first present proper credentials to the occupant and demand entry, explaining the reasons therefor and the purpose of the inspection.

(e) Exemption for police dogs. Police dogs shall be deemed exempt from the provisions of this Article while being used by the policing agency in the performance of the functions and duties of the policing agency.

(f) The animal control officer is authorized to use any tranquilizer gun or other firearm (if the animal control officer is authorized by law to carry a firearm) to subdue or destroy any wild, exotic or dangerous animal that is determined by the animal control officer or policing agency in his or her discretion to be of danger to either itself or to the public health and safety.

#### **Sec. 9-1-25. Public nuisance.**

Under this Article, it shall be unlawful for any person to cause or constitute a public nuisance or to knowingly permit, encourage or unreasonably fail to prevent such nuisances. Nuisance, for purposes of this Section, shall be deemed to be, but not limited to:

(1) Any continuous and habitual violation of any Section within this Article. Factors to be considered may be, but are not limited to, accumulated convictions for separate and distinct violations, degree of aggravation, number of violations within one (1) year or failure of the owner to take corrective action for any violation or all violations.

(2) Any behavior involving animals that endangers the health, safety or public peace of the community.

(3) Negligence in allowing the accumulation of waste matter to the degree of creating a putrid, offensive, unsanitary or unhealthy condition to the surrounding area.

#### **Sec. 9-1-27. Keeping of barking dogs.**

(a) It shall be unlawful to keep or harbor any dog which by frequent, habitual or continued barking, yelping or howling shall cause an annoyance or inconvenience to a neighbor or to people passing to and from upon the public streets or sidewalks, and such is declared to be a nuisance as defined in Section 9-1-25 and a violation of this Article.

(b) The animal control officer or a member of the policing agency shall have the authority to use all reasonable means to abate such nuisance, including, but not limited to, requiring that the owner make bona fide efforts to quiet the dog or upon approval of Town Administrator, impoundment of the dog where the owner is absent from the premises. Upon impoundment of a dog for violation of this Section, the animal control officer or policing agency shall attempt to locate and notify the absent owner by any reasonable means as readily as possible.

(c) No summons and complaint shall be issued nor shall there be a conviction for violation of this Section unless there are at least two (2) or more complaining witnesses from separate households who shall have signed such complaint and shall have testified at trial. An animal control officer or policing agency who has personally investigated the complaint of a single complainant and observed problem behavior of the dog with regard to its frequent, habitual or continued barking, yelping or howling may satisfy the requirement for the second complaining witness and may give testimony to such observations at trial.

#### **Sec. 9-1-30. Keeping of wildlife, exotic animals, or livestock.**

(a) Prohibited. It shall be unlawful for any person to own, possess, harbor, sell or in any other manner traffic in the following species or hybrid species of animals:

(1) All poisonous or venomous animals, anacondas, reticulated pythons, burmese pythons and amethystine pythons.

(2) All other non-venomous snakes with a length greater than six (6) feet measured from the tip of the nose to the tip of the tail.

(3) All other reptiles with a length greater than three (3) feet measured from the tip of the nose to the tip of the tail.

(4) Gorillas, chimpanzees, orangutans, baboons and any other primates.

(5) Any species of feline not falling within the categories of ordinary domesticated house cats.



- (6) Bears of any species.
- (7) Marsupials, squirrels, raccoons, porcupines, skunks, badgers or other like species, except ferrets (*mustela furo*).
- (8) Foxes, wolves, coyotes or other species of canines other than dogs.
- (9) Crocodilians and monitor lizards.
- (10) Any animal that is not indigenous to the state and is not classified as a household pet.

(b) It is unlawful for any person to own any livestock within the Town, except in areas zoned agricultural (AG), public (P) or planned development (PD) (if allowed pursuant to an approved outline development plan). Animal ratios in the public and planned development zone districts are allowed as follows:

|  |  |
|--|--|
| One (1) horse per one-half (½) acre; or<br>One (1) cow per one-half (½) acre; or<br>One (1) llama per one-half (½) acre. | Two (2) pigs per half (½) acre; or<br>Two (2) pigs per half (½) acre; or<br>Two (2) alpacas per half (½) acre. |
| Six (6) ducks/chickens/fowl per one-half (½) acre.   | Two (2) goats per one-half (½) acre  |

(c) Notwithstanding the foregoing, chickens and ducks may be kept on single-family residential lots within the Town, subject to permitting and to compliance with the regulations set forth in Section 9-1-35 of this Code and other applicable Town requirements.

(d) Alleged domestication of any prohibited animal shall not affect its status under this Section.

(e) Exceptions. Subsection (a) of this Section shall not be applicable to any bona fide zoological garden or any circus or carnival licensed by the Town or any state licensed wildlife rehabilitator, organization or individual who performs wildlife rescue and rehabilitation and is permitted with the Town.

(f) Confinement. The animal control officer will have the authority to apprehend any livestock, wild, exotic or dangerous animal that may be at large within the Town. Such livestock, wild, exotic or dangerous animal may be impounded, released in wild areas outside of the Town which are representative of the animal's natural habitat or released to an appropriate keeper or humanely destroyed when the animal control officer in his or her discretion shall determine such, subject to applicable state law.

**Sec. 9-1-35. Keeping of domestic chickens and ducks; quantity restricted; permit required.**

(a) Keeping of chickens and ducks. Domestic chickens and ducks may be kept on single-family residential parcels, subject to obtaining a permit as required by Subsection (c) and

compliance with all of the requirements set forth in this Section. For purposes of this Section, a single-family residential lot is a lot or tract of land having as its sole primary use one (1) detached single-family dwelling.

(b) Regulations. The following regulations apply to the keeping of chickens and ducks:

(1) Number; roosters, drakes prohibited. No more than six (6) domestic ducks or six (6) domestic chickens (or any combination thereof as long as the total number does not exceed six (6) are permitted per residential tract. Roosters and drakes are not permitted.

(2) Shelter requirements. Ducks and chickens must be provided with a covered, predator-resistant shelter that is properly ventilated and heated, with nesting boxes, designed to be easily accessed, cleaned and maintained, and that provides at least two (2) square feet per duck or chicken. The shelter shall not exceed one hundred twenty (120) square feet.

(3) Location of facilities. Duck and chicken facilities shall be located in the rear or backyard of the lot. They shall not be located between the rear of the structure and the front yard lot line. Ducks and chickens shall be kept within such facilities and are not permitted within any other portions of the lot.

(4) Access during daylight hours. During daylight hours, the ducks and chicken must have access to the shelter and to an outdoor enclosure, located adjacent to the shelter that is adequately fenced to protect them from predators.

(5) Shelter from dusk to dawn. The ducks and chickens must be further protected from predators by being closed in the shelter from dusk to dawn.

(6) Setbacks. Neither the shelter or the outdoor enclosure may be located less than fifteen (15) feet from any abutting property line unless the owner or keeper of the ducks and chickens obtains written consent of the owner(s) of all abutting properties to which the enclosure is proposed to be more closely located; in which event, the agreed-upon location shall then be deemed acceptable notwithstanding any subsequent change in ownership of such abutting property or properties.

(7) Fencing. In addition to the shelter described above, chickens and hens shall be confined to areas that are fully enclosed with adequate perimeter fencing to prevent the ducks and chickens from escaping when not in their shelters and to prevent predators' entry and from coming into contact with wild ducks, geese or their excrement. Fences required by this Subsection shall comply with the provisions of Section 16-2-790 of this Code and shall be resistant to predators. Adequate fencing material for purpose of this Subsection shall include wood, wire and stone. Split rail fences will not be deemed adequate for purposes of this Subsection.

(8) Water. Water must be available at all times in adequate receptacles.

(9) Food. Sufficient nutritive food must be provided daily and must be stored in a resealable, airtight, metal, rodent proof container to discourage attracting mice, rats, and other vermin.

(10) Cleanliness. The shelter and surrounding area must be kept clean from accumulation of excrement and debris so as to not create a nuisance.

(11) Odors prohibited. All coops and runs shall be regularly cleaned and maintained to control dust, odor, and waste and to prevent the facilities from constituting a nuisance, safety hazard, or health problem to surrounding properties. Odors associated with the coop shall be contained within the owner's property boundary.

(12) Slaughtering prohibited. The ducks and chickens may not be slaughtered killed by, or at the direction of, the owner or keeper thereof except pursuant to the lawful order of State or County health officials or for the purpose of euthanasia when surrendered to a licensed veterinarian or Humane Society. Dead animal carcasses shall be properly disposed of within 24 hours.

(c) Annual permit required. Any person keeping chickens or ducks pursuant to this Section must first have been issued a permit by the Town Administrator. Permitting is subject to the following requirements:

(1) The application shall be on a form provided by the Town and shall include a plan or drawing showing the proposed locations of all chicken or duck facilities to be located upon the parcel for which the permit is requested. Such plan or drawing shall include details demonstrating the applicant's proposed manner of compliance with the requirements of this Section.

(2) Prior to the issuance of a permit, the Town Administrator or their designee may inspect the parcel for which the permit is requested.

(3) A permit issued pursuant to this Section shall allow the keeping of chickens or ducks on the specific property identified in the permit. The permit shall be personal to the permittee and is non-transferrable.

(4) A permit issued pursuant to this Section must be renewed annually. A fee shall be charged for each new permit and each annual renewal permit, which fee shall be set by resolution of the Board of Trustees from time to time.

(d) Nuisance-free facilities as prerequisite. A permit to keep ducks or chickens within the Town shall not be granted or renewed unless the owner or keeper provides facilities which will reasonably assure the Town Administrator that the premises will be maintained in a sanitary condition, free from insects and rodents, offensive odors, excessive noise or any other conditions which constitute a public nuisance.

(e) Denial or revocation of permit. The Town Administrator may deny or revoke a permit to keep, maintain or possess fowl within the Town if the Town Administrator determines

that any provision of this Section is being violated or if the Town Administrator finds that maintenance of fowl interferes with the reasonable and comfortable use and enjoyment of property.

(f) Quarantine permitted. The Town Administrator is authorized to confiscate, quarantine, or destroy any chickens for the purpose of controlling the outbreak of contagious or infectious disease within the Town.

(g) Infectious disease. Nothing herein shall affect the authority of the State from enforcing the provisions of the Colorado Livestock Health Act, C.R.S. § 35-50-101, et seq., to control the outbreak of contagious or infectious disease among livestock in the Town by quarantine or slaughter.

(h) Expiration of permit. Any permit issued pursuant to this Section shall expire when the operation of the duck or chicken keeping has discontinued for twelve (12) months or more.

(i) Removal of shelter. Upon expiration, revocation or denial of a permit, all duck and chicken facilities shall be removed from the property within thirty (30) days of such expiration, revocation or denial.

(j) Penalties. Penalties for violation of any of the stipulations set forth in this Section will be one hundred dollars (\$100.00) for the first offense, one hundred fifty dollars (\$150.00) for the second offense, and revocation of the permit and removal of the chickens or ducks from the Town if a third offense occurs.

#### **Sec. 9-1-40. Keeping of hare or rabbit; quantity restricted; enclosure standards.**

(a) Keeping of rabbits and hares. It shall be unlawful for the owner of any hare or rabbit to fail to keep the hare or rabbit from running at large. Any owner who fails to comply with this Section will be in violation of Section 7-7-50 9-1-50 of this Article.

(b) Regulations. The following regulations apply to keeping hares and rabbits:

(1) No more than six (6) hares or rabbits are permitted per residential tract in the Town.

(2) Enclosures/shelter requirements. Enclosures for housing rabbits in colonies must provide a minimum of ten (10) square feet of floor space per rabbit over four (4) months of age. Rabbits over six (6) weeks of age and under four (4) months of age must be provided a minimum of seven and one-half (7.5) square feet of floor space per rabbit.

(3) The minimum height for any hare or rabbit's enclosure is fifteen (15) inches.

(4) Enclosure must provide adequate ventilation to prevent odor build-up and to maintain appropriate ambient temperature for the rabbits.

(5) The floor of a hare or rabbit's enclosure must be constructed of material that prevents pododermatitis (foot problems) and that can be adequately cleaned. Mesh flooring must be small enough to prevent the hare or rabbit's feet from passing through and to prevent discomfort to the animal.

(6) Water. Water must be available at all times in adequate receptacles.

(7) Food. Sufficient nutritive food must be provided daily and must be stored in a resealable, airtight, metal, rodent proof container to discourage attracting mice, rats and other vermin.

(8) Cleanliness. Shelter and surrounding area must be kept clean from accumulation of excrement and debris so as to not create a nuisance, safety hazard, and health problem to surrounding properties.

(9) Slaughtering prohibited. The hare and rabbit may not be slaughtered or killed by, or at the direction of, the owner thereof except pursuant to the lawful order of state or county health officials or for the purpose of euthanasia when surrendered to a licensed veterinarian, humane society or shelter.

(c) Annual permit required. Any person keeping rabbits or hares pursuant to this Section must first have been issued a permit by the Town Administrator. Permitting is subject to the following requirements:

(1) The application shall be on a form provided by the Town and shall include a plan or drawing showing the proposed locations of all enclosures and shelters to be located upon the tract for which the permit is requested. Such plan or drawing shall include details demonstrating the applicant's proposed manner of compliance with the requirements of this Section.

(2) Prior to the issuance of a permit, the Town Administrator or their designee may inspect the parcel for which the permit is requested.

(3) A permit issued pursuant to this Section shall allow the keeping of rabbits or hares on the specific property identified in the permit. The permit shall be personal to the permittee and is non-transferrable.

(4) A permit issued pursuant to this Section must be renewed annually. A fee shall be charged for each new permit and each annual renewal permit, which fee shall be set by resolution of the board of trustees from time to time.

(d) Quarantine permitted. The Town Administrator is authorized to confiscate, quarantine, or destroy any hare or rabbit for the purpose of controlling the outbreak of contagious or infectious disease.

(e) Penalty. Any person convicted of violating this Section of this Article shall, upon conviction, be punished by a fine in accordance with general penalty provisions set forth in Section 1-4-20 of this Code.

#### **Sec. 9-1-45. Beekeeping.**

(a) Hives. All bee colonies shall be kept in inspectable type hives with removable combs, which shall be kept in sound and usable condition.

(b) Setback. All hives shall be located at least five (5) feet from any adjoining property with the back of the hive facing the nearest adjoining property.

(c) Fencing of flyways. In each instance in which any colony is situated within ten (10) feet of a developed public or private property line of the tract upon which the apiary is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six (6) feet in height consisting of a solid wall or fence parallel to the property line and extending ten (10) feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six (6) feet above ground level over the property lines in the vicinity of the apiary.

(d) Water. Each beekeeper shall ensure that a convenient source of water is available at all times to the bees so that the bees will not congregate at swimming pools, bibcock's, pet water bowls, birdbaths or other water sources where they may cause human, bird or domestic pet contact. The water shall be maintained so as not to become stagnant.

(e) Maintenance. Each beekeeper shall ensure that no bee comb or other materials that might encourage robbing are left upon the grounds of the apiary site. Upon their removal from the hive, all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.

(f) Queens. In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to re-queen the colony. Queens shall be selected from stock bred for gentleness and non-swarming characteristics.

(g) Colony densities.

(1) It shall be unlawful to keep more than the following number of colonies on any tract within the Town, based upon the size or configuration of the tract on which the apiary is situated:

- a. One-quarter ( $\frac{1}{4}$ ) acre or less tract size—two (2) colonies;
- b. More than one-quarter ( $\frac{1}{4}$ ) acre but less than one-half ( $\frac{1}{2}$ ) acre tract size—four (4) colonies;
- c. One-half ( $\frac{1}{2}$ ) acre or more but less than one (1) acre tract size—six (6) colonies;
- d. One (1) acre or larger tract size—eight (8) colonies;

- e. Regardless of tract size, where all hives are situated at least two hundred (200) feet in any direction from all property lines of the tract on which the apiary is situated, there shall be no limit to the number of colonies.

(2) For each two (2) colonies authorized under colony densities, Subsection (g)(1) above, there may be maintained upon the same tract one (1) nucleus colony in a hive structure not exceeding one (1) standard nine and five-eighths ( $9 \frac{5}{8}$ ) inch depth ten (10) frame hive body with no supers attached as required from time to time for management of swarms. Each such nucleus colony shall be disposed of or combined with an authorized colony within thirty (30) days after the date it is acquired.

(h) Annual permit required. Any person keeping bees pursuant to this Section must first have been issued a permit by the Town Administrator. Permitting is subject to the following requirements:

(1) The application shall be on a form provided by the Town and shall include a plan or drawing showing the proposed locations of all hives to be located upon the tract for which the permit is requested. Such plan or drawing shall include details demonstrating the applicant's proposed manner of compliance with the requirements of this Section.

(2) Prior to the issuance of a permit, the Town Administrator or their designee may inspect the parcel for which the permit is requested.

(3) A permit issued pursuant to this Section shall allow the keeping of bees on the specific property identified in the permit. The permit shall be personal to the permittee and is non-transferrable.

(4) A permit issued pursuant to this Section must be renewed annually. A fee shall be charged for each new permit and each annual renewal permit, which fee shall be set by resolution of the board of trustees from time to time.

(i) Prohibited. The keeping by any person of bee colonies in the Town not in strict compliance with this Section is prohibited. Any bee colony not residing in a hive structure intended for beekeeping, or any swarm of bees, or any colony residing in a standard or homemade hive which, by virtue of its condition, has obviously been abandoned by the beekeeper, is unlawful and may be summarily destroyed or removed from the Town of Bennett by the Town Administrator.

#### **Sec. 9-1-47. HOA covenants to apply to keeping of domestic chickens, ducks, hares and bees.**

If the property upon which the keeping of ducks, chickens, hares and bees proposed are within a covenant-controlled development, the requirements of Section 9-1-35, 9-1-40, and 9-1-45 shall be considered minimum requirements and said Section shall not limit the rights of any homeowner's association or similar covenant-based property owner's association to lawfully adopt and enforce more stringent covenants standards, including the outright prohibition of ducks, chickens, hares and bees for any property within the authority of such association. Nothing herein,

including the issuance of a permit by the Town, shall allow the keeping of ducks, chickens, hares and bees where private covenants prohibit it.

#### **Sec. 9-1-50. Running at large.**

(a) Prohibited. It shall be unlawful for the owner of any dog or other animal to fail to keep the dog or other animal from running at large within the Town. For the purposes of this Article, an animal shall be deemed running at large when such animal is not physically restrained as follows:

(1) When the animal is being restrained by tethering upon the premises of the owner or custodian, it must have a cord, leash or chain that is a minimum of six (6) feet in length. It must not be able to enter upon public property, including sidewalks, or the premises of another. Any animal off the premises of the owner or custodian shall be restrained by a leash, cord or chain a maximum of ten (10) feet in length, held by a person who is physically able to control the animal.

(2) No animal shall be deemed to be running at large when the animal is upon the premises of the owner or custodian and when the animal is contained on or restricted to the premises by fencing or other means secured by an adequate locking device.

(3) Any animal enclosed within the automobile or other vehicle of its owner or custodian shall be deemed to be upon the owner's or custodian's premises.

(4) No dog shall be deemed to be running at large when the dog is upon the premises of a Town dedicated off-leash dog park.

(b) Animal killed or injured on highway. Notwithstanding any provisions herein to the contrary, animals injured or killed on or along public streets or other rights-of-way shall be presumed to be running at large. The animal control officer shall remove all such animals and, at his or her discretion, take those needing medical attention to a veterinarian or to the Town's designated animal shelter. The owner of such animal shall be liable for all expenses of treatment and of impoundment; as well as any penalties which may be imposed for violation of this Section.

(c) Unspayed females. Any unspayed female animal in the state of estrus (heat) shall be deemed to be running at large unless confined during such period of time within a house, building or other secure enclosure which shall be so constructed that no other animal of the opposite sex of the same species may gain access to the confined area unless intentionally admitted to such area by the confined animal's owner for breeding purposes. The animal control officer shall have the authority to order the owner to remove any unspayed female animal in the state of estrus (heat) to the type of confinement described in this Subsection and may furthermore require the animal to be confined to a boarding kennel or veterinary hospital of the owner's choice or to the Town's designated animal shelter for the duration of the estrus cycle. Any animal so confined to the Town's designated animal shelter shall not be disposed of as provided in Subsection 9-1-60(d). However, after notification that the animal is no longer in estrus and the animal is not redeemed after three (3) days, the owner is deemed to have abandoned the animal and Subsection 9-1-60(d)



shall become applicable. All expenses that were incurred as a result of confinement shall be paid by the owner. Failure to comply with the confinement order of the animal control officer shall constitute a violation of this Section and the animal will then be impounded as set forth in Section 9-1-60 and its owner shall be subject to the penalty set forth in Subsection (d) of this Section.

(d) Penalty. Any person found guilty of violating this Section shall, upon the first conviction, be subject to the payment of a fine of not less than one hundred dollars (\$100.00), upon the conviction of a second offense involving the same animal shall be fined a sum not less than one hundred fifty dollars (\$150.00) and shall be required to spay or neuter and microchip the animal (unless the owner provides a written statement from a licensed veterinarian that the spay or neuter procedure would be harmful or dangerous to the health of the animal, or provides proof from a licensed veterinarian the dog has been altered prior to the violation), and upon the third and subsequent offenses shall be fined in an amount not less than three hundred dollars (\$300.00). The minimum monetary fines stated in this Subsection may not be suspended by the municipal court. Nothing in this Subsection shall be construed as preventing the animal control officer from instituting a proceeding in the municipal court for violation of this section where there has been no impoundment.

**Sec. 9-1-60. Impoundment of animals; court proceedings; destruction of animals.**

(a) Any Animal Control Officer may go upon private property to capture and take into custody and impound at the Town's designated animal shelter any animal, or to investigate any report of, a violation of this Article if:

- (1) The Animal Control Officer has obtained the consent of the person in possession of the property;
- (2) The Animal Control Officer has obtained a search warrant;
- (3) The Animal Control Officer is in pursuit of an animal which is or has been running at large;
- (4) The Animal Control Officer is in pursuit of an animal which the officer has probable cause to believe has bitten or attacked a person or another domestic animal; or
- (5) The Animal Control Officer is attempting to abate a continuing violation when the owner of the property is not available.

Nothing in Paragraphs (3), (4) or (5) above shall be deemed to authorize entry into any enclosed building on the private property. In addition to all other defenses and immunities provided by law, an Animal Control Officer making entry upon private property for the purpose of enforcing this Article is immune from suit or liability, criminal or civil, caused by or arising out of such entry.

(b) Any Animal Control Officer may take into custody and impound, pursuant to Subsection (a) above, any vicious animal found within the Town, whose owner has been issued a

summons and complaint for the violation, or immediately if the animal has bitten or otherwise injured any person or another domestic animal.

(c) Upon serving of the third summons and complaint following two (2) convictions within one (1) year for public nuisance violations pursuant to Subsection 9-1-25 of this Article, or aggressive or dangerous animal pursuant to Section 9-1-80 of this Article, against the same animal, an Animal Control Officer may immediately take into custody and impound said animal pursuant to Subsection (a) above.

(d) Length of impoundment. If there is probable cause to believe that there is a violation of this Article, the animal may be taken into custody by the animal control officer or member of the policing agency and impounded in the Town's designated animal shelter in a humane manner. Except as otherwise provided in Subsection (h), such impoundment shall be for a period of not less than five (5) days, unless earlier claimed. If the owner fails to claim the impounded animal after five (5) days subsequent to being notified or reasonable efforts to notify have been made, the animal shall become the property of the Town and shall be disposed of in a humane manner at the discretion of the Town Administrator. The owner shall still be subject to all fees and costs.

(e) Any summons served for violation of this Article resulting in the impoundment of an animal shall require a mandatory court appearance of such animal's owner. Provided that the Town has evidence of outstanding costs incurred by the Town for the impound of animals pursuant to this Article, the Municipal Judge shall order restitution in such amount to cover the Town's outstanding costs, regardless of whether the owner claimed the animal from impoundment.

(f) The Town, Mayor, Board of Trustees, any Town officers, assistants and employees, or any other person authorized to enforce the provisions of this Article, shall not be held responsible for any accident or subsequent disease that may occur to the animal in connection with the administration of the provisions of this Article.

(g) Failure to produce animal. The owner of any animal subject to impoundment under Subsection (b) of this Article shall, on demand of the animal control officer, or other person who may be so authorized by the code, produce the animal for impoundment as prescribed in this Section. It shall be unlawful for the owner of any such animal to fail or refuse to produce the animal on demand. Any such failure or refusal shall subject the owner to immediate arrest, should probable cause exist to believe that the owner is harboring or keeping the animal and refuses to produce it upon such demand. upon arrest, the owner shall be held to appear before a judge of the municipal court who may order the immediate production of the animal. each day of such willful refusal to produce the animal shall constitute a separate violation and offense.

(h) Court findings; release of animal; destruction; surrender. If a complaint has been filed in the municipal court against the owner of an animal impounded for violation of this Article, the animal shall not be released from impoundment except on the order of the municipal judge. The municipal judge may, upon making a finding that the alleged owner has failed to appear for any court date on the complaint, order the animal to be surrendered to the Town of Bennett or destroyed in a humane manner.

(i) Court proceedings against animal owner. If a dog or other animal is impounded, the animal control officer or member of the policing agency may institute proceedings in the municipal court on behalf of the Town against the animal owner, if known, charging the owner with a violation pursuant to this Article. Nothing in this Section shall be construed as preventing the animal control officer, a member of the policing agency or any other person who may be authorized pursuant to this Code from instituting a proceeding in the municipal court for violation pursuant to this Article, when there is probable cause to believe that the violation occurred but where there has been no impoundment.

(j) Payment of fees prior to animal's release. Subject to Subsections (h) and (i) pursuant to this Article, any impounded animal may be redeemed by the owner upon prior payment of the impound fee, if the animal was not voluntarily impounded by the owner; boarding fees; veterinary charges, if any; and such other costs assessed incidental to the impoundment of the animal.

(k) Fails to pay fees; penalty. The refusal to redeem any impounded animal by the owner thereof shall not relieve the owner of the duty to pay the impoundment, boarding and veterinary charges that may be assessed. The owner of any animal who fails or refuses to pay such fees and charges shall be in violation of this Article and may be summoned and be subject to the penalty provided in Section 1-4-20 of this Code and subject to the requirements and limitations of C.R.S. § 18-1.3-702, upon conviction of violation of this Article.

#### **Sec. 9-1-65. Service animals.**

(a) Service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

(b) Service animals are subject to the licensing requirements set forth in this Article.

#### **Sec. 9-1-70. Licensing of dogs and cats.**

(a) License required. Any owner of a domesticated dog or cat kept as a household pet or working within the Town shall obtain a one-year or a three-year animal license from the Town or its designated agents, for each animal over the age of six (6) months. No license shall be issued until the applicant for the license provides proof of current vaccination for rabies as required in this Article.

(b) Assessment of fees. An animal license fee for domesticated dogs and cats kept as household pets shall be assessed pursuant to the Town of Bennett schedule of fees. Licensing fees shall be waived for any dog or cat being fostered for an animal rescue organization licensed by the State pursuant to the Pet Animal and Facilities Act. Any person requesting a fee waiver on such basis shall submit documents supporting such request at the time of licensing.

(c) Expiration and renewal. A one-year animal license shall expire December 31st of the year issued and renewed by January 15th of the following year. An animal license may be reissued upon payment of fees as stated in Subsection (b) of this Section.

(d) License tags. It is the responsibility of any owner, keeper or possessor of a domesticated dog, cat, or pot-bellied pig kept as a household pet or working within the Town to cause such animal to wear at all times a metal tag bearing the legible number of a current license issued for such animal as provided for in this Section. Should the tag be lost a replacement tag must be purchased. At any trial concerning a violation charged under this Section, the absence of such tags shall be prima facie evidence that such animal was not properly licensed.

(e) Penalty. Any person convicted of violating this Section of this Article shall, upon conviction, be punished by a fine in accordance with general penalty provisions set forth in Section 1-4-20 of this Code.

### **Sec. 9-1-75. Rabies control.**

(a) Inoculation. Any animal lawfully kept as a household pet or working in the Town which is capable of transmitting rabies shall be inoculated against rabies by a licensed veterinarian before attaining the age of four (4) months unless the owner presents to the Town a written statement from a licensed Colorado veterinarian that vaccination for rabies would be detrimental to the health of the specific animal. Such vaccination shall be kept current at all times with booster shots administered by a licensed veterinarian on or before the appropriate anniversary date of the initial inoculation. The owner acquiring such animal without current rabies inoculation and tag shall have such animal inoculated against rabies within thirty (30) days after the acquisition or when the animal reaches four (4) months of age. The owner or custodian of any animal required by this Section to be inoculated against rabies shall keep a current rabies tag securely attached to the animal at all times. Such tag shall contain the year of the vaccination.

(b) Biting animals; quarantine. The owner of any dog or other animal required by this Section to be inoculated against rabies that has bitten any person or other animal shall immediately notify an animal control officer. Any dog or other animal covered by this Section that has bitten any person or any other animal or that has been exposed to another animal which is believed to have rabies shall be immediately confined and observed for a period of no fewer than ten (10) days from the date of the bite or exposure. It shall be unlawful for the owner of any dog or other animal that has bitten any person or other animal or that has been exposed to an animal that is believed to have rabies to destroy such animal before it can be properly confined and observed under the supervision of the animal control officer. Such confinement may be on the premises of the owner if deemed an appropriate and sufficient safeguard in the discretion of the animal control officer. If not on the owner's premises, the confinement shall be at the Town's designated animal shelter or any licensed veterinary hospital of the owner's choice. Such confinement shall be at the sole expense of the owner.

(c) Removal from quarantine. It shall be unlawful for any person to remove from any place of quarantine any animal which has been quarantined pursuant to this Section, without the express consent of the animal control officer.

(d) Diagnosis by veterinarian.

(1) When an animal under quarantine has been diagnosed by a licensed veterinarian as being rabid, the veterinarian making such diagnosis shall immediately notify the Colorado Department of Public Health and Environment and advise it of any reports of human contact with such rabid animal. The Colorado Department of Public Health and Environment shall then, pursuant to its rules and procedures, humanely destroy such rabid animal.

(2) If any animal under quarantine dies while under observation and before a diagnosis has been made, the animal control officer shall immediately take action to notify the Colorado Department of Public Health and Environment which will take action to obtain a pathological and inoculation examination of the animal.

(3) If, after the ten (10) day or longer confinement and observation period provided for in this Section, the dog or other animal has not been diagnosed by a licensed veterinarian as having rabies, the quarantined animal shall be released from confinement by the animal control officer upon payment of all impoundment and other quarantine fees, unless the animal is being held pursuant to Section 9-1-60 of this Article.

(e) Penalty. Any person convicted of violating Section 9-1-90, 9-1-100, or 9-1-110 of this Article shall, upon conviction, be punished by a fine in accordance with general penalty provisions set forth in Section 1-4-20 of this Code.

**Sec. 9-1-80. Keeping aggressive or dangerous animals.**

(a) Prohibited. It shall be unlawful for any person to keep or harbor an aggressive or dangerous animal. Where there is more than one (1) owner of an aggressive or dangerous animal, such owners shall be jointly and severally liable for violations of this Section. Police dogs or those in training or guard dogs, as defined in Section 9-1-10 of this Article and kept in compliance with Section 9-1-110 of this Article, shall not be included under this definition.

(b) An Animal Control Officer may take into custody and impound at the Town's designated animal shelter any aggressive, or dangerous animal when reasonably necessary to protect his or her person or members of the public from injury or damage.

(c) It is a specific defense to the charge of owning an aggressive or dangerous animal that the threatened person or animal:

(1) Provoked, tormented, abused or inflicted injury upon the animal in such a manner as to result in the attack.

(2) Made unlawful entry into a vehicle in which the animal was confined.

(3) Attempted to assault another person.

(d) Any person convicted of violating this Section shall be punished by the fines set forth in accordance with the general penalty provisions set forth in Section 1-4-20 of this Code.

(e) Aggressive animals; penalty. Any person convicted of violating Section 9-1-80 of this Article shall, upon conviction, be punished by a fine in accordance with general penalty provisions set forth in Section 1-4-20 of this Code.

#### **Sec. 9-1-90. Vicious animals.**

(a) No person shall own a vicious animal within the Town. Where there is more than one (1) owner of a vicious animal, such owners shall be jointly and severally liable for violations of this Section. Police dogs or those in training or guard dogs, as defined in Section 7-7-10 of this Article and kept in compliance with Section 7-7-110 of this Article, shall not be included under this definition.

(b) An Animal Control Officer may take into custody and impound at the Town's designated animal shelter any animal that is vicious, and may take whatever action is reasonably necessary to protect his or her person or members of the public from injury or damage, including immediate destruction of any vicious animal without notice to the owner.

(c) It is a specific defense to the charge of owning a vicious animal that the injured or threatened person or animal:

(1) Provoked, tormented, abused or inflicted injury upon the animal in such a manner as to result in the attack or bite.

(2) Made unlawful entry into or upon a fenced or enclosed portion of the premises upon which the animal was lawfully kept or upon a portion of the premises where the animal was lawfully chained with the intent to commit a crime other than trespass.

(3) Made unlawful entry into a vehicle in which the animal was confined.

(4) Attempted to assault another person.

(d) For the purposes of this Section, a person is lawfully upon the premises of an owner when such person is on the premises in the performance of any duty imposed by law or by the express or implied invitation of the owner of such premises or the owner's agent.

(e) Penalty. Any person convicted of violating Section 9-1-90, 9-1-100, or 9-1-110 of this Article shall, upon conviction, be punished by a fine in accordance with general penalty provisions set forth in Section 1-4-20 of this Code.

#### **Sec. 9-1-100. Keeping of vicious animals.**

(a) Upon a plea of guilty or conviction by the Municipal Court that an animal is vicious, if such animal is not ordered destroyed, the owner shall comply with each of the following requirements. Any failure of the owner of an animal found to be vicious to comply with the requirements of this Section may result in prosecution under this Section and may subject the owner to possible impound and destruction of the animal.

(b) The owner of the animal must be eighteen (18) years of age or older and shall, within ten (10) days of the finding that the animal is vicious, register the animal with the Town Clerk as a vicious animal. At that time, the owner must provide evidence of the following in a form acceptable to the Town Clerk or designee thereof:

(1) That the animal has been spayed or neutered;

(2) That an identification microchip has been implanted in the animal; and

(3) That the owner has procured liability insurance in a minimum amount of one hundred thousand dollars (\$100,000.00) to cover any damages caused or which may be caused by the vicious animal during the calendar year or during the period covered by the license required by this Article.

(c) When the animal is not under the direct control of the owner, the owner shall cause the vicious animal to be confined indoors or placed and kept in a proper secure enclosure. At all times when the vicious animal is away from the property of the owner, the owner shall keep the vicious animal muzzled and securely leashed with a leash no greater than four (4) feet in length and held by a person capable of restraining the animal or in a secure temporary enclosure.

(d) The owner shall post at each possible entrance to the property where the vicious animal is kept a conspicuous and clearly legible sign warning there is a vicious animal on the property. Such sign must be at least eight (8) inches by ten (10) inches and shall contain only the words "vicious animal" not less than two (2) inches in height.

(e) The owner shall notify the Town Clerk within (5) five calendar days of any change in address or in the event that the vicious animal is lost, stolen, otherwise missing or dies. The owner of a vicious animal who transfers ownership of the animal must notify the Town Clerk of the same and provide the name, address and telephone number of the new owner. The owner additionally is required to inform the new owner that the animal has been found to be a vicious animal and that the new owner must comply with the requirements of this Section within ten (10) days of acquiring the animal. It shall be unlawful for the new owner to fail to comply with the requirements of this Section within ten (10) days of receipt of the animal, even if such notification by the prior owner has not been made.

#### **Sec. 9-1-110. Guard dogs.**

(a) No person shall own or employ a guard dog in any area of the Town unless the following conditions are met:

(1) All guard dogs within the Town shall be registered with the Animal Control Officer and meet all requirements of this Code.

(2) The owner or other person in control of the premises upon which a guard dog is maintained shall post warning signs on, over or next to all exterior doors stating that such a dog is on the premises. Such signs shall be visible from the curb line or at a distance of fifty (50) feet, whichever is less, and shall contain a telephone number where some person responsible for controlling such guard dog can be reached twenty-four (24) hours a day.

(3) Prior to placing any guard dog on any property within the Town, the person responsible for such placement shall in writing inform the Town, the Policing Agency and the Fire Department of his or her intention to post the dog; the number of dogs to be posted; the approximate length of time the dog will be guarding the area; the daily hours the dog will be guarding the area; the breed, sex and age of the dog; and the rabies tag number of the dog. Such notice must be renewed every six (6) months.

(b) Any failure to comply with the requirements of this Section may result in prosecution for prohibited ownership of an aggressive or vicious animal pursuant to Sections 9-1-80 or 9-1-90 of this Article.

#### **Sec. 9-1-150. Humane care.**

(a) Generally. Each animal shall be adequately supervised by the owner and controlled so as to prevent injury, diseases or neglect. Sick or injured animals shall be provided with veterinary care and controlled in a manner that provides for the health and comfort of the animal at all times.

(b) Standards. Every owner, agent, lessee, tenant or occupant of any premises where any animal is kept, shall ensure all equipment, buildings and facilities are constructed and maintained to not less than the following standards:

(1) Structural strength. Housing facilities or shelters for animals shall be structurally sound and able to contain the animals and shall be maintained in good repair to protect the animals from injury, adverse weather, safety or health hazards.

(2) Water. Adequate and potable water shall be available to the animals at all times unless veterinary orders indicate to the contrary. Watering receptacles shall be kept clean.

(3) Electric power. Reliable and adequate electric power shall be provided if required for lighting or heating.

(4) Storage. Supplies of feed and bedding shall be stored and protected against infestation or contamination by vermin or decaying organic matter.



(5) Cleaning of pet shops, kennels, cages, facilities and surrounding premises. In pet shops, kennels, cages, facilities and surrounding premises, waste material shall be removed as often as necessary to prevent contamination and to reduce disease, hazards and odors.

(6) Ventilation. Cages, corrals, kennels, stables, stalls, facilities and shelters shall be ventilated to provide for the health and comfort of the animals at all times. Animals shall be provided with fresh air, either by means of windows, doors or vents, which shall be ventilated so as to minimize draft, odors and moisture condensation.

(7) Lighting. Where lighting is required, such lighting shall provide uniformly distributed illumination of sufficient intensity to permit routine inspection and cleaning during inspections or working periods.

(8) Heating. The ambient temperature shall be consistent with the health requirements of the animals.

(9) Cages, corrals, kennels, stables, stalls or any other enclosures. Cages or enclosures shall be structurally sound to contain the animal and shall be maintained in good repair to protect the animal from injury and any adverse conditions. Enclosures shall provide sufficient space to meet the conditions and size of the animal and allow the animal to turn about freely and to easily stand and lie in a comfortable, normal position.

(10) Housekeeping. All facilities shall be kept clean and in good repair in order to protect the animals from injury and disease and to facilitate good animal husbandry, and the owner shall keep surrounding areas free of accumulations of trash, debris and waste.

(11) Excrement. It shall be unlawful for the owner of any dog or other animal not to immediately remove excrement deposited by such animal upon a common thoroughfare, street, sidewalk, play area, and park or upon any other public property or private property not their own. Animal excrement shall not be placed in storm sewers or street gutters, but shall be disposed of in a sanitary manner. It shall also be unlawful under this Article to permit excessive excrement to accumulate on any property to the degree that it becomes offensive or injurious to health.

(12) Feeding. Each animal shall be fed food of a sufficient quantity and of good nutritive quality to meet the normal daily requirements according to size and needs of the animal. Food receptacles shall be located for easy accessibility to the animal and to minimize contamination from trash, debris and waste.

(13) Fencing. All fencing requirements shall comply with Chapter 16, Section 16-2-790.

**Sec. 9-1-200. Cruelty; mistreatment to animals.**

(a) Cruelty. It shall be unlawful for any person to commit cruelty to animals. A person commits cruelty to animals if he or she knowingly or with criminal negligence overdrives, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, needlessly mutilates, needlessly kills or, having the charge or custody of any animal, fails to provide it with proper food, drink or protection from the weather or abandons it.

(b) Open vehicle. No person who owns or has control of any animal shall allow such animal to ride in any open motor vehicle or vessel in such a manner as to permit injury to the animal. For purposes of this Subsection, the operator of a motor vehicle shall be deemed to have control of any animals riding therein. Factors to be considered by the court shall include, but are not limited to, the following:

(1) Transporting any animal in an open truck or any motor vehicle or vessel in such a manner as to permit an animal to jump or be thrown therefrom by acceleration of, stopping of or accident involving the vehicle.

(2) Weather conditions and temperature of the vehicle.

(3) Tethering or securing any animal in such a way that it may be thrown from the vehicle by acceleration of, stopping of or accident involving the vehicle. This Subsection shall not apply to the owner or controller of such animal if such animal is confined to a cage or enclosure of adequate construction to prevent its escape therefrom and provides proper ventilation.

(c) Care of confined animal. Except as authorized by law, no animal shall be confined without an adequate supply of food and water. If any animal is found to be confined without adequate food or water, it shall be lawful for any policing agency or animal control officer, from time to time as may be necessary, to enter into and upon any area or building where such animal is confined and supply it with adequate food and water in accordance with the procedures found in Section 9-1-20. If such animal is not cared for by a person other than an animal control officer within twenty-four (24) hours of the posting of notification as described in Section 9-1-20, such animal shall be presumed to have been abandoned under circumstances in which the animal's life or health is endangered.

(d) Endangering animal's health or life. No animal shall be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered. The term "mistreatment," "neglect" or "abandoned" are as defined in Section 9-1-10.

(e) Poisoning. It shall be unlawful for any person to poison any animal or to distribute poison in any manner whatsoever with the intent to or for the purpose of poisoning any animal; provided, however, for the purpose only of this Subsection, the term "animal" shall not include bats, mice, rats, or other rodents approved by state law, but shall include hamsters, guinea pigs, rabbits and squirrels. The distribution of any poison or poisoned meat or food, other than those

specifically for insect or bat, mouse, rat, or other rodent poisoning, shall be prima facie evidence of violation of this Subsection.

(f) Harassing birds. It shall be unlawful for any person within the Town to at any time willfully frighten, shoot at, wound, kill, capture, ensnare, net, trap or in any other manner harass or injure any bird, fowl or water fowl or in any manner willfully molest or injure the nest, eggs or young of any such bird, fowl or water fowl.

## **CHAPTER 9 - Animal Control**

### **ARTICLE I**

#### **Sec. ~~7-7-10~~ 9-1-10. Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

*Abandoned* means the leaving of an animal without adequate provisions for the animal's proper care by its owner or any person responsible for the animal's control or custody or having possession of such animal.

*Aggressive or dangerous animal* shall mean ~~any dog or other animal that, without intentional provocation, or in an aggressive or dangerous manner approaches any person or other animal in an apparent attitude of attack, whether or not the attack is consummated or capable of being consummated.~~ any animal that, without provocation, threatens to attack a human being or domestic animal; or without provocation, chases or approaches a person upon the streets, sidewalks, or other areas open to the public, in a menacing fashion, or has a known propensity, tendency, or disposition to attack without provocation; or an animal causing an injury to a person or domestic animal that is less severe than a bodily injury or serious injury, including slight puncture wounds, slight abrasions, or other superficial wound caused by the animal's teeth or claws.

*Animal* means a living organism other than a plant or bacterium. Animal in this Article includes arthropods, amphibians, reptiles, birds, and mammals. As used in this Article, the term "animal" excludes humans.

*Animal Control Officer* means any employee of the Town, including the ~~Code Enforcement~~ Community Service Officer, any employee of the Town's designated animal shelter or any member of the County Sheriff's Office whose job duties include the enforcement of the terms of this Article.

*Animal grooming service* means any place or establishment where animals are kept less than twenty-four (24) hours to be clipped, combed or otherwise groomed for compensation for the purpose of enhancing their appearance, aesthetic value or health.

*Animal, spayed/neutered* means any animal upon which any neutering procedure has been performed by a licensed veterinarian and accompanied by a certificate asserting such operation or other procedure has been performed.

*Apiary* means a place where bee colonies are kept.

*Bee* means any stage of the common domestic honey bee, *apis mellifera* species.

*Bodily injury* means any physical injury that results in severe bruising, severe muscle tears, or severe skin lacerations requiring professional medical treatment or any physical injury that requires sutures, or corrective or cosmetic surgery.

*Cat* means any animal of the species *Felis domesticus*.

*Colony* means a hive and its equipment and appurtenances, including bees, comb, honey, pollen, and brood.

*Dog* means any animal of the species *Canis familiaris*.

*Dog kennel* means any facility for housing, boarding, harboring, training or breeding where more than three (3) dogs that are four (4) months of age or older are kept.

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*Guard dog* means any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog that is either securely enclosed within the area at all times or under the continuous control of a trained handler.

*Household pet* means any domesticated animal commonly kept in the primary residence. Household pets include dogs, domestic cats, domestic caged birds, canaries, parrots, potbellied pigs, rabbits, hamsters, guinea pigs and similar rodents, fish, and reptiles so long as such animals are not kept to supplement food supplies or for any commercial purpose whatsoever. Household pet does not include livestock.

*Livestock* means any chickens, ducks, geese, turkeys, peafowl, peacocks or other domestic fowl, hogs, pigs (except pot-belly pigs), swine, sheep, goats, cattle, horses, mules, llamas or other animals raised or kept for profit or production.

*Microchip* means an electronic transponder intended for the subcutaneous insertion into an animal for the use of identification.

*Mistreatment* means an act or omission which causes or unreasonably permits the continuation of unnecessary abuse or unjustifiable pain or suffering.

*Neglect* means failure to provide food, water, protection from the elements or other care generally considered to be normal, usual and accepted for an animal's health and wellbeing consistent with the species, breed and type of animal.

*Owner* means any person in possession of, harboring, keeping or having custody, financial or property interest or control of any animal.

*Pet shop* means any business engaged in buying, selling, trading or bartering for resale or wholesale pet animals to consumers, brokers, commissioned merchants or any middleman.

*Police dog* means a currently registered and certified canine police dog that is either in training or on active duty status with a law enforcement agency within the State.

*Pot-bellied pig* is a dwarf swine breed between 70 and 150 pounds, with a straight tail, potbelly and swayback.

*Premises of the owner* means the residence of the owner, including the attached property surrounding the residence that is leased or owned by the owner, but not including any common area, park or recreational property jointly owned or leased by the members of a homeowners' or tenants' association.

*Quarantine* means a state, period or place of isolation in which an animal is observed for a period of no fewer than ten (10) days from the date of bite or exposure to a contagious disease.

*Running at large* means an animal off or away from the premises of the owner, and not under the control of such owner or an agent, servant or member of the immediate family, either by leash, cord or chain.

*Serious injury* means bodily injury, which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or results in breaks, fractures, or burns of the second or third degree.

*Service animal* means a dog that is individually trained to do work or perform tasks for people with disabilities. A miniature horse may qualify as a service animal under the circumstances set forth in the American with Disabilities Act (ADA) regulations. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals.

*Town's designated animal shelter* means any premises designated by the Town Administrator for the humane boarding and caring for any animal impounded under this Article or any other ordinance or laws of the state.

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*Veterinary clinic* means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

*Vicious animal* means any animal that, without provocation, bites or attacks a person or another domestic animal, either on public or private property.

*Wildlife* means any animal that exists in a natural wild state in its place of origin, presently or historically, except those species determined to be domestic animals or livestock by this Article.

**Sec. ~~7-7-15~~ 9-1-15. Excessive number prohibited.**

It shall be unlawful for any person to keep or harbor more than four (4) dogs or four (4) cats or (2) pot-bellied pigs or a combination thereof that shall not exceed a total of four (4) animals, that are four (4) months of age or older on any premises within the Town of Bennett. Only one (1) litter of offspring may be kept on the premises until the age of six (6) months. Exceptions are licensed kennels, veterinary clinics, pet shops, animal grooming services and shelters.

**Sec. ~~7-7-20~~ 9-1-20. Inspection and enforcement powers.**

- (a) Any animal control officer, any policing agency or other person who may be so authorized by the code is hereby authorized to issue a summons and complaint to any person when said officer personally observes a violation of the provisions of this Article, or when information is received from any person who has personal knowledge that an act or acts which are made unlawful by the provisions of this Article have occurred. The penalty assessment procedure provided in the Colorado Municipal Court rules of procedure (mail-in fines) may be followed, as permitted by law, by the animal control officer, provided that a mandatory court appearance will be required of the owner whenever an animal is impounded as provided in this Article.
- (b) Interference unlawful. It shall be unlawful for any person to interfere with, harass, hinder or obstruct the animal control officer or any other Town employee or official in the discharge of official duties under this Article.
- (c) Inspection procedure. Whenever it becomes necessary to make an inspection to enforce any of the provisions of or to perform any duty imposed by this Article or other applicable law or whenever the animal control officer or authorized representative has reasonable cause to believe that there exists in any building or upon any premises any violation of the provisions of this Article or other applicable law, the animal control officer or authorized representative is authorized to enter such property at any reasonable time and to inspect the property and perform any duty imposed upon the animal control officer by this Article or by other applicable law, provided that:
  - (1) If such property is occupied, the animal control officer shall first present proper credentials to the occupant and request and obtain permission for entry, explaining the reasons therefor; or
  - (2) If such property is unoccupied, the animal control officer shall first make a reasonable effort to locate the owner or other person having charge or control of the property and request entry, explaining the reasons therefor. If such entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after due diligence, the animal control officer or authorized representative shall have recourse to every remedy provided by law to secure lawful entry and inspect the property. Notice of the entry shall be given by posting such notification at an entrance to or at a conspicuous place upon such area or building where such animal is confined.
- (d) Immediate inspection. Notwithstanding Subsection (c) of this Section, if the animal control officer or authorized representative has reasonable cause to believe that the keeping or the maintaining of any animal is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the animal or the public health or safety, the animal control officer, after first notifying the Town Administrator, shall have the

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right to immediately enter and inspect such property and may use any reasonable means required to effect such entry and make such inspection, whether such property is occupied or unoccupied and whether or not permission to inspect has been obtained. If the property is occupied, the animal control officer shall first present proper credentials to the occupant and demand entry, explaining the reasons therefor and the purpose of the inspection.

- (e) Exemption for police dogs. Police dogs shall be deemed exempt from the provisions of this Article while being used by the policing agency in the performance of the functions and duties of the policing agency.
- (f) The animal control officer is authorized to use any tranquilizer gun or other firearm (if the animal control officer is authorized by law to carry a firearm) to subdue or destroy any wild, exotic or dangerous animal that is determined by the animal control officer or policing agency in his or her discretion to be of danger to either itself or to the public health and safety.

(Ord. 706-20 , §1(Exh. A), 3-24-2020)

### **Sec. ~~7-7-25~~ 9-1-25. Public nuisance.**

Under this Article, it shall be unlawful for any person to cause or constitute a public nuisance or to knowingly permit, encourage or unreasonably fail to prevent such nuisances. Nuisance, for purposes of this Section, shall be deemed to be, but not limited to:

- (1) Any continuous and habitual violation of any Section within this Article. Factors to be considered may be, but are not limited to, accumulated convictions for separate and distinct violations, degree of aggravation, number of violations within one (1) year or failure of the owner to take corrective action for any violation or all violations.
- (2) Any behavior involving animals that endangers the health, safety or public peace of the community.
- (3) Negligence in allowing the accumulation of waste matter to the degree of creating a putrid, offensive, unsanitary or unhealthy condition to the surrounding area.

### **Sec. ~~7-7-27~~ 9-1-27. Keeping of barking dogs.**

- (a) It shall be unlawful to keep or harbor any dog which by frequent, habitual or continued barking, yelping or howling shall cause an annoyance or inconvenience to a neighbor or to people passing to and from upon the public streets or sidewalks, and such is declared to be a nuisance as defined in Section 7-7-25 and a violation of this Article.
- (b) The animal control officer or a member of the policing agency shall have the authority to use all reasonable means to abate such nuisance, including, but not limited to, requiring that the owner make bona fide efforts to quiet the dog or upon approval of Town Administrator, impoundment of the dog where the owner is absent from the premises. Upon impoundment of a dog for violation of this Section, the animal control officer or policing agency shall attempt to locate and notify the absent owner by any reasonable means as readily as possible.
- (c) No summons and complaint shall be issued nor shall there be a conviction for violation of this Section unless there are at least two (2) or more complaining witnesses from separate households who shall have signed such complaint and shall have testified at trial. An animal control officer or policing agency who has personally investigated the complaint of a single complainant and observed problem behavior of the dog with regard to its frequent, habitual or continued barking, yelping or howling may satisfy the requirement for the second complaining witness and may give testimony to such observations at trial.

(Ord. 706-20 , §1(Exh. A), 3-24-2020)

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**Sec. ~~7-7-30~~ 9-1-30. Keeping of wildlife, exotic animals, or livestock.**

- (a) Prohibited. It shall be unlawful for any person to own, possess, harbor, sell or in any other manner traffic in the following species or hybrid species of animals:
- (1) All poisonous or venomous animals, anacondas, reticulated pythons, burmese pythons and amethystine pythons.
  - (2) All other non-venomous snakes with a length greater than six (6) feet measured from the tip of the nose to the tip of the tail.
  - (3) All other reptiles with a length greater than three (3) feet measured from the tip of the nose to the tip of the tail.
  - (4) Gorillas, chimpanzees, orangutans, baboons and any other primates.
  - (5) Any species of feline not falling within the categories of ordinary domesticated house cats.
  - (6) Bears of any species.
  - (7) Marsupials, squirrels, raccoons, porcupines, skunks, badgers or other like species, except ferrets (*mustela furo*).
  - (8) Foxes, wolves, coyotes or other species of canines other than dogs.
  - (9) Crocodilians and monitor lizards.
  - (10) Any animal that is not indigenous to the state and is not classified as a household pet.
- (b) It is unlawful for any person to own any livestock within the Town, except in areas zoned agricultural (AG), public (P) or planned development (PD) (if allowed pursuant to an approved outline development plan). Animal ratios in the public and planned development zone districts are allowed as follows:

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| One (1) horse per one-half (½) acre; or<br>One (1) cow per one-half (½) acre; or<br>One (1) llama per one-half (½) acre. | Two (2) pigs per one-half (½) acre; or<br>Two (2) sheep per half (½) acre; or<br><br>Two (2) alpacas per half (½) acre. |
| Six (6) ducks/chickens/fowl per one-half (½) acre.   | Two (2) goats per one-half (½) acre   |

- (b) Notwithstanding the foregoing, chickens and ducks may be kept on single-family residential lots within the Town, subject to permitting and to compliance with the regulations set forth in Section ~~7-7-35~~ 9-1-35 of this Code and other applicable Town requirements.
- (c) Alleged domestication of any prohibited animal shall not affect its status under this Section.
- (d) Exceptions. Subsection (a) of this Section shall not be applicable to any bona fide zoological garden or any circus or carnival licensed by the Town or any state licensed wildlife rehabilitator, organization or individual who performs wildlife rescue and rehabilitation and is permitted with the Town.
- (e) Confinement. The animal control officer will have the authority to apprehend any livestock, wild, exotic or dangerous animal that may be at large within the Town. Such livestock, wild, exotic or dangerous animal may be impounded, released in wild areas outside of the Town which are representative of the animal's natural habitat or released to an appropriate keeper or humanely destroyed when the animal control officer in his or her discretion shall determine such, subject to applicable state law.

(Ord. 706-20 , §1(Exh. A), 3-24-2020)



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**Sec. ~~7-7-35~~ 9-1-35. Keeping of domestic chickens and ducks; quantity restricted; permit required.**

- (a) Keeping of chickens and ducks. Domestic chickens and ducks may be kept on single-family residential parcels, subject to obtaining a permit as required by Subsection (c) and compliance with all of the requirements set forth in this Section. For purposes of this Section, a single-family residential lot is a lot or tract of land having as its sole primary use one (1) detached single-family dwelling.
- (b) Regulations. The following regulations apply to the keeping of chickens and ducks:
- (1) Number; roosters, drakes prohibited. No more than six (6) domestic ducks or six (6) domestic chickens (or any combination thereof as long as the total number does not exceed six (6)) are permitted per residential tract. Roosters and drakes are not permitted.
  - (2) Shelter requirements. Ducks and chickens must be provided with a covered, predator-resistant shelter that is properly ventilated and heated, with nesting boxes, designed to be easily accessed, cleaned and maintained, and that provides at least two (2) square feet per duck or chicken. The shelter shall not exceed one hundred twenty (120) square feet.
  - (3) Location of facilities. Duck and chicken facilities shall be located in the rear or backyard of the lot. They shall not be located between the rear of the structure and the front yard lot line. Ducks and chickens shall be kept within such facilities and are not permitted within any other portions of the lot.
  - (4) Access during daylight hours. During daylight hours, the ducks and chicken must have access to the shelter and to an outdoor enclosure, located adjacent to the shelter that is adequately fenced to protect them from predators.
  - (5) Shelter from dusk to dawn. The ducks and chickens must be further protected from predators by being closed in the shelter from dusk to dawn.
  - (6) Setbacks. Neither the shelter or the outdoor enclosure may be located less than fifteen (15) feet from any abutting property line unless the owner or keeper of the ducks and chickens obtains written consent of the owner(s) of all abutting properties to which the enclosure is proposed to be more closely located; in which event, the agreed-upon location shall then be deemed acceptable notwithstanding any subsequent change in ownership of such abutting property or properties.
  - (7) Fencing. In addition to the shelter described above, chickens and hens shall be confined to areas that are fully enclosed with adequate perimeter fencing to prevent the ducks and chickens from escaping when not in their shelters and to prevent predators' entry and from coming into contact with wild ducks, geese or their excrement. Fences required by this Subsection shall comply with the provisions of Section 16-2-790 of this Code and shall be resistant to predators. Adequate fencing material for purpose of this Subsection shall include wood, wire and stone. Split rail fences will not be deemed adequate for purposes of this Subsection.
  - (8) Water. Water must be available at all times in adequate receptacles.
  - (9) Food. Sufficient nutritive food must be provided daily and must be stored in a resealable, airtight, metal, rodent proof container to discourage attracting mice, rats, and other vermin.
  - (10) Cleanliness. The shelter and surrounding area must be kept clean from accumulation of excrement and debris so as to not create a nuisance.
  - (11) Odors prohibited. All coops and runs shall be regularly cleaned and maintained to control dust, odor, and waste and to prevent the facilities from constituting a nuisance, safety hazard, or health problem to surrounding properties. Odors associated with the coop shall be contained within the owner's property boundary.

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- (12) Slaughtering prohibited. The ducks and chickens may not be slaughtered killed by, or at the direction of, the owner or keeper thereof except pursuant to the lawful order of State or County health officials or for the purpose of euthanasia when surrendered to a licensed veterinarian or Humane Society. Dead animal carcasses shall be properly disposed of within 24 hours.
- (c) Annual permit required. Any person keeping chickens or ducks pursuant to this Section must first have been issued a permit by the Town Administrator. Permitting is subject to the following requirements:
- (1) The application shall be on a form provided by the Town and shall include a plan or drawing showing the proposed locations of all chicken or duck facilities to be located upon the parcel for which the permit is requested. Such plan or drawing shall include details demonstrating the applicant's proposed manner of compliance with the requirements of this Section.
  - (2) Prior to the issuance of a permit, the Town Administrator or their designee may inspect the parcel for which the permit is requested.
  - (3) A permit issued pursuant to this Section shall allow the keeping of chickens or ducks on the specific property identified in the permit. The permit shall be personal to the permittee and is non-transferrable.
  - (4) A permit issued pursuant to this Section must be renewed annually. A fee shall be charged for each new permit and each annual renewal permit, which fee shall be set by resolution of the Board of Trustees from time to time.
- (d) Nuisance-free facilities as prerequisite. A permit to keep ducks or chickens within the Town shall not be granted or renewed unless the owner or keeper provides facilities which will reasonably assure the Town Administrator that the premises will be maintained in a sanitary condition, free from insects and rodents, offensive odors, excessive noise or any other conditions which constitute a public nuisance.
- (e) Denial or revocation of permit. The Town Administrator may deny or revoke a permit to keep, maintain or possess fowl within the Town if the Town Administrator determines that any provision of this Section is being violated or if the Town Administrator finds that maintenance of fowl interferes with the reasonable and comfortable use and enjoyment of property.
- (f) Quarantine permitted. The Town Administrator is authorized to confiscate, quarantine, or destroy any chickens for the purpose of controlling the outbreak of contagious or infectious disease within the Town.
- (g) Infectious disease. Nothing herein shall affect the authority of the State from enforcing the provisions of the Colorado Livestock Health Act, C.R.S. § 35-50-101, et seq., to control the outbreak of contagious or infectious disease among livestock in the Town by quarantine or slaughter.
- (h) Expiration of permit. Any permit issued pursuant to this Section shall expire when the operation of the duck or chicken keeping has discontinued for twelve (12) months or more.
- (i) Removal of shelter. Upon expiration, revocation or denial of a permit, all duck and chicken facilities shall be removed from the property within thirty (30) days of such expiration, revocation or denial.
- (j) Penalties. Penalties for violation of any of the stipulations set forth in this Section will be one hundred dollars (\$100.00) for the first offense, one hundred fifty dollars (\$150.00) for the second offense, and revocation of the permit and removal of the chickens or ducks from the Town if a third offense occurs.

(Ord. 706-20 , §1(Exh. A), 3-24-2020)

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**Sec. ~~7-7-40~~ 9-1-40. Keeping of hare or rabbit; quantity restricted; enclosure standards.**

- (a) Keeping of rabbits and hares. It shall be unlawful for the owner of any hare or rabbit to fail to keep the hare or rabbit from running at large. Any owner who fails to comply with this Section will be in violation of Section ~~7-7-50~~ 9-1-50 of this Article.
- (b) Regulations. The following regulations apply to keeping hares and rabbits:
- (1) No more than six (6) hares or rabbits are permitted per residential tract in the Town.
  - (2) Enclosures/shelter requirements. Enclosures for housing rabbits in colonies must provide a minimum of ten (10) square feet of floor space per rabbit over four (4) months of age. Rabbits over six (6) weeks of age and under four (4) months of age must be provided a minimum of seven and one-half (7.5) square feet of floor space per rabbit.
  - (3) The minimum height for any hare or rabbit's enclosure is fifteen (15) inches.
  - (4) Enclosure must provide adequate ventilation to prevent odor build-up and to maintain appropriate ambient temperature for the rabbits.
  - (5) The floor of a hare or rabbit's enclosure must be constructed of material that prevents pododermatitis (foot problems) and that can be adequately cleaned. Mesh flooring must be small enough to prevent the hare or rabbit's feet from passing through and to prevent discomfort to the animal.
  - (6) Water. Water must be available at all times in adequate receptacles.
  - (7) Food. Sufficient nutritive food must be provided daily and must be stored in a resealable, airtight, metal, rodent proof container to discourage attracting mice, rats and other vermin.
  - (8) Cleanliness. Shelter and surrounding area must be kept clean from accumulation of excrement and debris so as to not create a nuisance, safety hazard, and health problem to surrounding properties.
  - (9) Slaughtering prohibited. The hare and rabbit may not be slaughtered or killed by, or at the direction of, the owner thereof except pursuant to the lawful order of state or county health officials or for the purpose of euthanasia when surrendered to a licensed veterinarian, humane society or shelter.
- (c) Annual permit required. Any person keeping rabbits or hares pursuant to this Section must first have been issued a permit by the Town Administrator. Permitting is subject to the following requirements:
- (1) The application shall be on a form provided by the Town and shall include a plan or drawing showing the proposed locations of all enclosures and shelters to be located upon the tract for which the permit is requested. Such plan or drawing shall include details demonstrating the applicant's proposed manner of compliance with the requirements of this Section.
  - (2) Prior to the issuance of a permit, the Town Administrator or their designee may inspect the parcel for which the permit is requested.
  - (3) A permit issued pursuant to this Section shall allow the keeping of rabbits or hares on the specific property identified in the permit. The permit shall be personal to the permittee and is non-transferrable.
  - (4) A permit issued pursuant to this Section must be renewed annually. A fee shall be charged for each new permit and each annual renewal permit, which fee shall be set by resolution of the board of trustees from time to time.
- (d) Quarantine permitted. The Town Administrator is authorized to confiscate, quarantine, or destroy any hare or rabbit for the purpose of controlling the outbreak of contagious or infectious disease.

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- (e) Penalty. Any person convicted of violating this Section of this Article shall, upon conviction, be punished by a fine in accordance with general penalty provisions set forth in Section 1-4-20 of this Code.

(Ord. 706-20 , §1(Exh. A), 3-24-2020)

**Sec. ~~7-7-45~~ 9-1-45. Beekeeping.**

- (a) Hives. All bee colonies shall be kept in inspectable type hives with removable combs, which shall be kept in sound and usable condition.
- (b) Setback. All hives shall be located at least five (5) feet from any adjoining property with the back of the hive facing the nearest adjoining property.
- (c) Fencing of flyways. In each instance in which any colony is situated within ten (10) feet of a developed public or private property line of the tract upon which the apiary is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six (6) feet in height consisting of a solid wall or fence parallel to the property line and extending ten (10) feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six (6) feet above ground level over the property lines in the vicinity of the apiary.
- (d) Water. Each beekeeper shall ensure that a convenient source of water is available at all times to the bees so that the bees will not congregate at swimming pools, bibcock's, pet water bowls, birdbaths or other water sources where they may cause human, bird or domestic pet contact. The water shall be maintained so as not to become stagnant.
- (e) Maintenance. Each beekeeper shall ensure that no bee comb or other materials that might encourage robbing are left upon the grounds of the apiary site. Upon their removal from the hive, all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.
- (f) Queens. In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to re-queen the colony. Queens shall be selected from stock bred for gentleness and non-swarming characteristics.
- (g) Colony densities.
- (1) It shall be unlawful to keep more than the following number of colonies on any tract within the Town, based upon the size or configuration of the tract on which the apiary is situated:
- One-quarter ( $\frac{1}{4}$ ) acre or less tract size—two (2) colonies;
  - More than one-quarter ( $\frac{1}{4}$ ) acre but less than one-half ( $\frac{1}{2}$ ) acre tract size—four (4) colonies;
  - One-half ( $\frac{1}{2}$ ) acre or more but less than one (1) acre tract size—six (6) colonies;
  - One (1) acre or larger tract size—eight (8) colonies;
  - Regardless of tract size, where all hives are situated at least two hundred (200) feet in any direction from all property lines of the tract on which the apiary is situated, there shall be no limit to the number of colonies.
- (2) For each two (2) colonies authorized under colony densities, Subsection (g)(1) above, there may be maintained upon the same tract one (1) nucleus colony in a hive structure not exceeding one (1) standard nine and five-eighths ( $9\frac{5}{8}$ ) inch depth ten (10) frame hive body with no supers attached as required from time to time for management of swarms. Each such nucleus colony shall be disposed of or combined with an authorized colony within thirty (30) days after the date it is acquired.

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- (h) Annual permit required. Any person keeping bees pursuant to this Section must first have been issued a permit by the Town Administrator. Permitting is subject to the following requirements:
- (1) The application shall be on a form provided by the Town and shall include a plan or drawing showing the proposed locations of all hives to be located upon the tract for which the permit is requested. Such plan or drawing shall include details demonstrating the applicant's proposed manner of compliance with the requirements of this Section.
  - (2) Prior to the issuance of a permit, the Town Administrator or their designee may inspect the parcel for which the permit is requested.
  - (3) A permit issued pursuant to this Section shall allow the keeping of bees on the specific property identified in the permit. The permit shall be personal to the permittee and is non-transferrable.
  - (4) A permit issued pursuant to this Section must be renewed annually. A fee shall be charged for each new permit and each annual renewal permit, which fee shall be set by resolution of the board of trustees from time to time.
- (i) Prohibited. The keeping by any person of bee colonies in the Town not in strict compliance with this Section is prohibited. Any bee colony not residing in a hive structure intended for beekeeping, or any swarm of bees, or any colony residing in a standard or homemade hive which, by virtue of its condition, has obviously been abandoned by the beekeeper, is unlawful and may be summarily destroyed or removed from the Town of Bennett by the Town Administrator.

(Ord. 706-20 , §1(Exh. A), 3-24-2020)

**Sec. ~~7-7-47~~ 9-1-47. HOA covenants to apply to keeping of domestic chickens, ducks, hares and bees.**

If the property upon which the keeping of ducks, chickens, hares and bees proposed are within a covenant-controlled development, the requirements of Section ~~7-7-35, 7-7-40 and 7-7-45~~ 9-1-35, 9-1-40, and 9-1-45 shall be considered minimum requirements and said Section shall not limit the rights of any homeowner's association or similar covenant-based property owner's association to lawfully adopt and enforce more stringent covenants standards, including the outright prohibition of ducks, chickens, hares and bees for any property within the authority of such association. Nothing herein, including the issuance of a permit by the Town, shall allow the keeping of ducks, chickens, hares and bees where private covenants prohibit it.

**Sec. ~~7-7-50~~ 9-1-50. Running at large.**

- (a) Prohibited. It shall be unlawful for the owner of any dog or other animal to fail to keep the dog or other animal from running at large within the Town. For the purposes of this Article, an animal shall be deemed running at large when such animal is not physically restrained as follows:
- (1) When the animal is being restrained by tethering upon the premises of the owner or custodian, it must have a cord, leash or chain that is a minimum of six (6) feet in length. It must not be able to enter upon public property, including sidewalks, or the premises of another. Any animal off the premises of the owner or custodian shall be restrained by a leash, cord or chain a maximum of ten (10) feet in length, held by a person who is physically able to control the animal.
  - (2) No animal shall be deemed to be running at large when the animal is upon the premises of the owner or custodian and when the animal is contained on or restricted to the premises by fencing or other means secured by an adequate locking device.

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- (3) Any animal enclosed within the automobile or other vehicle of its owner or custodian shall be deemed to be upon the owner's or custodian's premises.
- (~~3~~ 4) No dog shall be deemed to be running at large when the dog is upon the premises of a Town dedicated off-leash dog park.
- (b) Animal killed or injured on highway. Notwithstanding any provisions herein to the contrary, animals injured or killed on or along public streets or other rights-of-way shall be presumed to be running at large. The animal control officer shall remove all such animals and, at his or her discretion, take those needing medical attention to a veterinarian or to the Town's designated animal shelter. The owner of such animal shall be liable for all expenses of treatment and of impoundment; as well as any penalties which may be imposed for violation of this Section.
- (c) Unspayed females. Any unspayed female animal in the state of estrus (heat) shall be deemed to be running at large unless confined during such period of time within a house, building or other secure enclosure which shall be so constructed that no other animal of the opposite sex of the same species may gain access to the confined area unless intentionally admitted to such area by the confined animal's owner for breeding purposes. The animal control officer shall have the authority to order the owner to remove any unspayed female animal in the state of estrus (heat) to the type of confinement described in this Subsection and may furthermore require the animal to be confined to a boarding kennel or veterinary hospital of the owner's choice or to the Town's designated animal shelter for the duration of the estrus cycle. Any animal so confined to the Town's designated animal shelter shall not be disposed of as provided in Subsection ~~7-7-60~~ 9-1-60(d). However, after notification that the animal is no longer in estrus and the animal is not redeemed after three (3) days, the owner is deemed to have abandoned the animal and Subsection ~~7-7-60~~ 9-1-60(d) shall become applicable. All expenses that were incurred as a result of confinement shall be paid by the owner. Failure to comply with the confinement order of the animal control officer shall constitute a violation of this Section and the animal will then be impounded as set forth in Section ~~7-7-60~~ 9-1-60 and its owner shall be subject to the penalty set forth in Subsection (d) of this Section.
- (d) Penalty. Any person found guilty of violating this Section shall, upon the first conviction, be subject to the payment of a fine of not less than one hundred dollars (\$100.00), upon the conviction of a second offense involving the same animal shall be fined a sum not less than one hundred fifty dollars (\$150.00) and shall be required to spay or neuter and microchip the animal (unless the owner provides a written statement from a licensed veterinarian that the spay or neuter procedure would be harmful or dangerous to the health of the animal, or provides proof from a licensed veterinarian the dog has been altered prior to the violation), and upon the third and subsequent offenses shall be fined in an amount not less than three hundred dollars (\$300.00). The minimum monetary fines stated in this Subsection may not be suspended by the municipal court. Nothing in this Subsection shall be construed as preventing the animal control officer from instituting a proceeding in the municipal court for violation of this section where there has been no impoundment.

(Ord. 706-20 , §1(Exh. A), 3-24-2020)

**Sec. ~~7-7-60~~ 9-1-60. Impoundment of animals; court proceedings; destruction of animals.**

- (a) Any Animal Control Officer may go upon private property to capture and take into custody and impound at the Town's designated animal shelter any animal, or to investigate any report of, a violation of this Article if:
- (1) The Animal Control Officer has obtained the consent of the person in possession of the property;
  - (2) The Animal Control Officer has obtained a search warrant;
  - (3) The Animal Control Officer is in pursuit of an animal which is or has been running at large;

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- (4) The Animal Control Officer is in pursuit of an animal which the officer has probable cause to believe has bitten or attacked a person or another domestic animal; or
  - (5) The Animal Control Officer is attempting to abate a continuing violation when the owner of the property is not available.

Nothing in Paragraphs (3), (4) or (5) above shall be deemed to authorize entry into any enclosed building on the private property. In addition to all other defenses and immunities provided by law, an Animal Control Officer making entry upon private property for the purpose of enforcing this Article is immune from suit or liability, criminal or civil, caused by or arising out of such entry.

- (b) Any Animal Control Officer may take into custody and impound, pursuant to Subsection (a) above, any vicious animal found within the Town, whose owner has been issued a summons and complaint for the violation, or immediately if the animal has bitten or otherwise injured any person or another domestic animal.
- (c) Upon serving of the third summons and complaint following two (2) convictions within one (1) year for public nuisance violations pursuant to Subsection ~~7-7-25~~ 9-1-25 of this Article, or aggressive or dangerous animal pursuant to Section ~~7-7-80~~ 9-1-80 of this Article, against the same animal, an Animal Control Officer may immediately take into custody and impound said animal pursuant to Subsection (a) above.
- (d) Length of impoundment. If there is probable cause to believe that there is a violation of this Article, the animal may be taken into custody by the animal control officer or member of the policing agency and impounded in the Town's designated animal shelter in a humane manner. Except as otherwise provided in Subsection (h), such impoundment shall be for a period of not less than five (5) days, unless earlier claimed. If the owner fails to claim the impounded animal after five (5) days subsequent to being notified or reasonable efforts to notify have been made, the animal shall become the property of the Town and shall be disposed of in a humane manner at the discretion of the Town Administrator. The owner shall still be subject to all fees and costs.
- (e) Any summons served for violation of this Article resulting in the impoundment of an animal shall require a mandatory court appearance of such animal's owner. Provided that the Town has evidence of outstanding costs incurred by the Town for the impound of animals pursuant to this Article, the Municipal Judge shall order restitution in such amount to cover the Town's outstanding costs, regardless of whether the owner claimed the animal from impoundment.
- (f) The Town, Mayor, Board of Trustees, any Town officers, assistants and employees, or any other person authorized to enforce the provisions of this Article, shall not be held responsible for any accident or subsequent disease that may occur to the animal in connection with the administration of the provisions of this Article.
- (g) Failure to produce animal. The owner of any animal subject to impoundment under Subsection (b) of this Article shall, on demand of the animal control officer, or other person who may be so authorized by the code, produce the animal for impoundment as prescribed in this Section. It shall be unlawful for the owner of any such animal to fail or refuse to produce the animal on demand. Any such failure or refusal shall subject the owner to immediate arrest, should probable cause exist to believe that the owner is harboring or keeping the animal and refuses to produce it upon such demand. upon arrest, the owner shall be held to appear before a judge of the municipal court who may order the immediate production of the animal. each day of such willful refusal to produce the animal shall constitute a separate violation and offense.
- (h) Court findings; release of animal; destruction; surrender. If a complaint has been filed in the municipal court against the owner of an animal impounded for violation of this Article, the animal shall not be released from impoundment except on the order of the municipal judge. The municipal judge may, upon making a finding that the alleged owner has failed to appear for any court date on the complaint, order the animal to be surrendered to the Town of Bennett or destroyed in a humane manner.

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- (i) Court proceedings against animal owner. If a dog or other animal is impounded, the animal control officer or member of the policing agency may institute proceedings in the municipal court on behalf of the Town against the animal owner, if known, charging the owner with a violation pursuant to this Article. Nothing in this Section shall be construed as preventing the animal control officer, a member of the policing agency or any other person who may be authorized pursuant to this Code from instituting a proceeding in the municipal court for violation pursuant to this Article, when there is probable cause to believe that the violation occurred but where there has been no impoundment.
  - (j) Payment of fees prior to animal's release. Subject to Subsections (h) and (i) pursuant to this Article, any impounded animal may be redeemed by the owner upon prior payment of the impound fee, if the animal was not voluntarily impounded by the owner; boarding fees; veterinary charges, if any; and such other costs assessed incidental to the impoundment of the animal.
  - (k) Fails to pay fees; penalty. The refusal to redeem any impounded animal by the owner thereof shall not relieve the owner of the duty to pay the impoundment, boarding and veterinary charges that may be assessed. The owner of any animal who fails or refuses to pay such fees and charges shall be in violation of this Article and may be summoned and be subject to the penalty provided in Section 1-4-20 of this Code and subject to the requirements and limitations of C.R.S. § 18-1.3-702, upon conviction of violation of this Article.

(Ord. 706-20 , §1(Exh. A), 3-24-2020)

#### **Sec. ~~7-7-65~~ 9-1-65. Service animals.**

- (a) Service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.
- (b) Service animals are subject to the licensing requirements set forth in this Article.

(Ord. 706-20 , §1(Exh. A), 3-24-2020)

#### **Sec. ~~7-7-70~~ 9-1-70. Licensing of dogs and cats.**

- (a) License required. Any owner of a domesticated dog or cat kept as a household pet or working within the Town shall obtain a one-year or a three-year animal license from the Town or its designated agents, for each animal over the age of six (6) months. No license shall be issued until the applicant for the license provides proof of current vaccination for rabies as required in this Article.
- (b) Assessment of fees. An animal license fee for domesticated dogs and cats kept as household pets shall be assessed pursuant to the Town of Bennett schedule of fees. Licensing fees shall be waived for any dog or cat being fostered for an animal rescue organization licensed by the State pursuant to the Pet Animal and Facilities Act. Any person requesting a fee waiver on such basis shall submit documents supporting such request at the time of licensing.
- (c) Expiration and renewal. A one-year animal license shall expire December 31<sup>st</sup> of the year issued and renewed by January 15<sup>th</sup> of the following year. ~~twelve (12) months from the date of issuance. A three-year animal license shall expire thirty-six (36) months from the date of issuance.~~ An animal license may be reissued upon payment of fees as stated in Subsection (b) of this Section.
- (d) License tags. It is the responsibility of any owner, keeper or possessor of a domesticated dog ~~or, cat, or pot-~~ bellied pig kept as a household pet or working within the Town to cause such animal to wear at all times a metal tag bearing the legible number of a current license issued for such animal as provided for in this Section. Should the tag be lost a replacement tag must be purchased. At any trial concerning a violation



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charged under this Section, the absence of such tags shall be prima facie evidence that such animal was not properly licensed.

- (e) Penalty. Any person convicted of violating this Section of this Article shall, upon conviction, be punished by a fine in accordance with general penalty provisions set forth in Section 1-4-20 of this Code.

(Ord. 706-20 , §1(Exh. A), 3-24-2020)

**Sec. ~~7-7-75~~ 9-1-75. Rabies control.**

- (a) Inoculation. Any animal lawfully kept as a household pet or working in the Town which is capable of transmitting rabies shall be inoculated against rabies by a licensed veterinarian before attaining the age of four (4) months unless the owner presents to the Town a written statement from a licensed Colorado veterinarian that vaccination for rabies would be detrimental to the health of the specific animal. Such vaccination shall be kept current at all times with booster shots administered by a licensed veterinarian on or before the appropriate anniversary date of the initial inoculation. The owner acquiring such animal without current rabies inoculation and tag shall have such animal inoculated against rabies within thirty (30) days after the acquisition or when the animal reaches four (4) months of age. The owner or custodian of any animal required by this Section to be inoculated against rabies shall keep a current rabies tag securely attached to the animal at all times. Such tag shall contain the year of the vaccination.
- (b) Biting animals; quarantine. The owner of any dog or other animal required by this Section to be inoculated against rabies that has bitten any person or other animal shall immediately notify an animal control officer. Any dog or other animal covered by this Section that has bitten any person or any other animal or that has been exposed to another animal which is believed to have rabies shall be immediately confined and observed for a period of no fewer than ten (10) days from the date of the bite or exposure. It shall be unlawful for the owner of any dog or other animal that has bitten any person or other animal or that has been exposed to an animal that is believed to have rabies to destroy such animal before it can be properly confined and observed under the supervision of the animal control officer. Such confinement may be on the premises of the owner if deemed an appropriate and sufficient safeguard in the discretion of the animal control officer. If not on the owner's premises, the confinement shall be at the Town's designated animal shelter or any licensed veterinary hospital of the owner's choice. Such confinement shall be at the sole expense of the owner.
- (c) Removal from quarantine. It shall be unlawful for any person to remove from any place of quarantine any animal which has been quarantined pursuant to this Section, without the express consent of the animal control officer.
- (d) Diagnosis by veterinarian.
- (1) When an animal under quarantine has been diagnosed by a licensed veterinarian as being rabid, the veterinarian making such diagnosis shall immediately notify the Colorado Department of Public Health and Environment and advise it of any reports of human contact with such rabid animal. The Colorado Department of Public Health and Environment shall then, pursuant to its rules and procedures, humanely destroy such rabid animal.
  - (2) If any animal under quarantine dies while under observation and before a diagnosis has been made, the animal control officer shall immediately take action to notify the Colorado Department of Public Health and Environment which will take action to obtain a pathological and inoculation examination of the animal.
  - (3) If, after the ten (10) day or longer confinement and observation period provided for in this Section, the dog or other animal has not been diagnosed by a licensed veterinarian as having rabies, the quarantined animal shall be released from confinement by the animal control officer upon payment of

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all impoundment and other quarantine fees, unless the animal is being held pursuant to Section ~~7-7-60~~ 9-1-60 of this Article.

- (e) Penalty. Any person convicted of violating Section ~~7-7-90, 7-7-100 or 7-7-110~~ 9-1-90, 9-1-100, or 9-1-110 of this Article shall, upon conviction, be punished by a fine in accordance with general penalty provisions set forth in Section 1-4-20 of this Code.

(Ord. 706-20 , §1(Exh. A), 3-24-2020)

**Sec. ~~7-7-80~~ 9-1-80. Keeping aggressive or dangerous animals.**

- (a) Prohibited. It shall be unlawful for any person to keep or harbor an aggressive or dangerous animal. Where there is more than one (1) owner of an aggressive or dangerous animal, such owners shall be jointly and severally liable for violations of this Section. Police dogs or those in training or guard dogs, as defined in Section ~~7-7-10~~ 9-1-10 of this Article and kept in compliance with Section ~~7-7-110~~ 9-1-110 of this Article, shall not be included under this definition.
- (b) An Animal Control Officer may take into custody and impound at the Town's designated animal shelter any aggressive, or dangerous animal when reasonably necessary to protect his or her person or members of the public from injury or damage.
- (c) It is a specific defense to the charge of owning an aggressive or dangerous animal that the threatened person or animal:
- (1) Provoked, tormented, abused or inflicted injury upon the animal in such a manner as to result in the attack.
  - (2) Made unlawful entry into a vehicle in which the animal was confined.
  - (3) Attempted to assault another person.
- (d) Any person convicted of violating this Section shall be punished by the fines set forth in accordance with the general penalty provisions set forth in Section 1-4-20 of this Code.
- (e) Aggressive animals; penalty. Any person convicted of violating Section ~~7-7-80~~ 9-1-80 of this Article shall, upon conviction, be punished by a fine in accordance with general penalty provisions set forth in Section 1-4-20 of this Code.

(Ord. 706-20 , §1(Exh. A), 3-24-2020)

**Sec. ~~7-7-90~~ 9-1-90. Vicious animals.**

- (a) No person shall own a vicious animal within the Town. Where there is more than one (1) owner of a vicious animal, such owners shall be jointly and severally liable for violations of this Section. Police dogs or those in training or guard dogs, as defined in Section 7-7-10 of this Article and kept in compliance with Section 7-7-110 of this Article, shall not be included under this definition.
- (b) An Animal Control Officer may take into custody and impound at the Town's designated animal shelter any animal that is vicious, and may take whatever action is reasonably necessary to protect his or her person or members of the public from injury or damage, including immediate destruction of any vicious animal without notice to the owner.
- (c) It is a specific defense to the charge of owning a vicious animal that the injured or threatened person or animal:

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- (1) Provoked, tormented, abused or inflicted injury upon the animal in such a manner as to result in the attack or bite.
  - (2) Made unlawful entry into or upon a fenced or enclosed portion of the premises upon which the animal was lawfully kept or upon a portion of the premises where the animal was lawfully chained with the intent to commit a crime other than trespass.
  - (3) Made unlawful entry into a vehicle in which the animal was confined.
  - (4) Attempted to assault another person.
- (d) For the purposes of this Section, a person is lawfully upon the premises of an owner when such person is on the premises in the performance of any duty imposed by law or by the express or implied invitation of the owner of such premises or the owner's agent.
- (e) Penalty. Any person convicted of violating Section ~~7-7-90, 7-7-100 or 7-7-110~~ 9-1-90, 9-1-100, or 9-1-110 of this Article shall, upon conviction, be punished by a fine in accordance with general penalty provisions set forth in Section 1-4-20 of this Code.
- (Ord. 706-20 , §1(Exh. A), 3-24-2020)

**Sec. ~~7-7-100~~ 9-1-100. Keeping of vicious animals.**

- (a) Upon a plea of guilty or conviction by the Municipal Court that an animal is vicious, if such animal is not ordered destroyed, the owner shall comply with each of the following requirements. Any failure of the owner of an animal found to be vicious to comply with the requirements of this Section may result in prosecution under this Section and may subject the owner to possible impound and destruction of the animal.
- (b) The owner of the animal must be eighteen (18) years of age or older and shall, within ten (10) days of the finding that the animal is vicious, register the animal with the Town Clerk as a vicious animal. At that time, the owner must provide evidence of the following in a form acceptable to the Town Clerk or designee thereof:
- (1) That the animal has been spayed or neutered;
  - (2) That an identification microchip has been implanted in the animal; and
  - (3) That the owner has procured liability insurance in a minimum amount of one hundred thousand dollars (\$100,000.00) to cover any damages caused or which may be caused by the vicious animal during the calendar year or during the period covered by the license required by this Article.
- (c) When the animal is not under the direct control of the owner, the owner shall cause the vicious animal to be confined indoors or placed and kept in a proper secure enclosure. At all times when the vicious animal is away from the property of the owner, the owner shall keep the vicious animal muzzled and securely leashed with a leash no greater than four (4) feet in length and held by a person capable of restraining the animal or in a secure temporary enclosure.
- (d) The owner shall post at each possible entrance to the property where the vicious animal is kept a conspicuous and clearly legible sign warning there is a vicious animal on the property. Such sign must be at least eight (8) inches by ten (10) inches and shall contain only the words "vicious animal" not less than two (2) inches in height.
- (e) The owner shall notify the Town Clerk within (5) five calendar days of any change in address or in the event that the vicious animal is lost, stolen, otherwise missing or dies. The owner of a vicious animal who transfers ownership of the animal must notify the Town Clerk of the same and provide the name, address and telephone number of the new owner. The owner additionally is required to inform the new owner that the

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animal has been found to be a vicious animal and that the new owner must comply with the requirements of this Section within ten (10) days of acquiring the animal. It shall be unlawful for the new owner to fail to comply with the requirements of this Section within ten (10) days of receipt of the animal, even if such notification by the prior owner has not been made.

(Ord. 706-20 , §1(Exh. A), 3-24-2020)

**Sec. ~~7-7-110~~ 9-1-110. Guard dogs.**

- (a) No person shall own or employ a guard dog in any area of the Town unless the following conditions are met:
  - (1) All guard dogs within the Town shall be registered with the Animal Control Officer and meet all requirements of this Code.
  - (2) The owner or other person in control of the premises upon which a guard dog is maintained shall post warning signs on, over or next to all exterior doors stating that such a dog is on the premises. Such signs shall be visible from the curb line or at a distance of fifty (50) feet, whichever is less, and shall contain a telephone number where some person responsible for controlling such guard dog can be reached twenty-four (24) hours a day.
  - (3) Prior to placing any guard dog on any property within the Town, the person responsible for such placement shall in writing inform the Town, the Policing Agency and the Fire Department of his or her intention to post the dog; the number of dogs to be posted; the approximate length of time the dog will be guarding the area; the daily hours the dog will be guarding the area; the breed, sex and age of the dog; and the rabies tag number of the dog. Such notice must be renewed every six (6) months.
- (b) Any failure to comply with the requirements of this Section may result in prosecution for prohibited ownership of an aggressive or vicious animal pursuant to Sections 7-7-80 or 7-7-90 of this Article.

(Ord. 706-20 , §1(Exh. A), 3-24-2020)

**Sec. ~~7-7-150~~ 9-1-150. Humane care.**

- (a) Generally. Each animal shall be adequately supervised by the owner and controlled so as to prevent injury, diseases or neglect. Sick or injured animals shall be provided with veterinary care and controlled in a manner that provides for the health and comfort of the animal at all times.
- (b) Standards. Every owner, agent, lessee, tenant or occupant of any premises where any animal is kept, shall ensure all equipment, buildings and facilities are constructed and maintained to not less than the following standards:
  - (1) Structural strength. Housing facilities or shelters for animals shall be structurally sound and able to contain the animals and shall be maintained in good repair to protect the animals from injury, adverse weather, safety or health hazards.
  - (2) Water. Adequate and potable water shall be available to the animals at all times unless veterinary orders indicate to the contrary. Watering receptacles shall be kept clean.
  - (3) Electric power. Reliable and adequate electric power shall be provided if required for lighting or heating.
  - (4) Storage. Supplies of feed and bedding shall be stored and protected against infestation or contamination by vermin or decaying organic matter.

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- (5) Cleaning of pet shops, kennels, cages, facilities and surrounding premises. In pet shops, kennels, cages, facilities and surrounding premises, waste material shall be removed as often as necessary to prevent contamination and to reduce disease, hazards and odors.
  - (6) Ventilation. Cages, corrals, kennels, stables, stalls, facilities and shelters shall be ventilated to provide for the health and comfort of the animals at all times. Animals shall be provided with fresh air, either by means of windows, doors or vents, which shall be ventilated so as to minimize draft, odors and moisture condensation.
  - (7) Lighting. Where lighting is required, such lighting shall provide uniformly distributed illumination of sufficient intensity to permit routine inspection and cleaning during inspections or working periods.
  - (8) Heating. The ambient temperature shall be consistent with the health requirements of the animals.
  - (9) Cages, corrals, kennels, stables, stalls or any other enclosures. Cages or enclosures shall be structurally sound to contain the animal and shall be maintained in good repair to protect the animal from injury and any adverse conditions. Enclosures shall provide sufficient space to meet the conditions and size of the animal and allow the animal to turn about freely and to easily stand and lie in a comfortable, normal position.
  - (10) Housekeeping. All facilities shall be kept clean and in good repair in order to protect the animals from injury and disease and to facilitate good animal husbandry, and the owner shall keep surrounding areas free of accumulations of trash, debris and waste.
  - (11) Excrement. It shall be unlawful for the owner of any dog or other animal not to immediately remove excrement deposited by such animal upon a common thoroughfare, street, sidewalk, play area, and park or upon any other public property or private property not their own. Animal excrement shall not be placed in storm sewers or street gutters, but shall be disposed of in a sanitary manner. It shall also be unlawful under this Article to permit excessive excrement to accumulate on any property to the degree that it becomes offensive or injurious to health.
  - (12) Feeding. Each animal shall be fed food of a sufficient quantity and of good nutritive quality to meet the normal daily requirements according to size and needs of the animal. Food receptacles shall be located for easy accessibility to the animal and to minimize contamination from trash, debris and waste.
  - (13) Fencing. All fencing requirements shall comply with Chapter 16, Section 16-2-790.

(Ord. 706-20 , §1(Exh. A), 3-24-2020)

## **Sec. ~~7-7-200~~ 9-1-200. Cruelty; mistreatment to animals.**

- (a) Cruelty. It shall be unlawful for any person to commit cruelty to animals. A person commits cruelty to animals if he or she knowingly or with criminal negligence overdrives, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, needlessly mutilates, needlessly kills or, having the charge or custody of any animal, fails to provide it with proper food, drink or protection from the weather or abandons it.
- (b) Open vehicle. No person who owns or has control of any animal shall allow such animal to ride in any open motor vehicle or vessel in such a manner as to permit injury to the animal. For purposes of this Subsection, the operator of a motor vehicle shall be deemed to have control of any animals riding therein. Factors to be considered by the court shall include, but are not limited to, the following:
  - (1) Transporting any animal in an open truck or any motor vehicle or vessel in such a manner as to permit an animal to jump or be thrown therefrom by acceleration of, stopping of or accident involving the vehicle.

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- (2) Weather conditions and temperature of the vehicle.
- (3) Tethering or securing any animal in such a way that it may be thrown from the vehicle by acceleration of, stopping of or accident involving the vehicle. This Subsection shall not apply to the owner or controller of such animal if such animal is confined to a cage or enclosure of adequate construction to prevent its escape therefrom and provides proper ventilation.
- (c) Care of confined animal. Except as authorized by law, no animal shall be confined without an adequate supply of food and water. If any animal is found to be confined without adequate food or water, it shall be lawful for any policing agency or animal control officer, from time to time as may be necessary, to enter into and upon any area or building where such animal is confined and supply it with adequate food and water in accordance with the procedures found in Section ~~7-7-20~~ 9-1-20. If such animal is not cared for by a person other than an animal control officer within twenty-four (24) hours of the posting of notification as described in Section ~~7-7-20~~ 9-1-20, such animal shall be presumed to have been abandoned under circumstances in which the animal's life or health is endangered.
- (d) Endangering animal's health or life. No animal shall be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered. The term "mistreatment," "neglect" or "abandoned" are as defined in Section ~~7-7-10~~ 9-1-10.
- (e) Poisoning. It shall be unlawful for any person to poison any animal or to distribute poison in any manner whatsoever with the intent to or for the purpose of poisoning any animal; provided, however, for the purpose only of this Subsection, the term "animal" shall not include bats, mice, rats, or other rodents approved by state law, but shall include hamsters, guinea pigs, rabbits and squirrels. The distribution of any poison or poisoned meat or food, other than those specifically for insect or bat, mouse, rat, or other rodent poisoning, shall be prima facie evidence of violation of this Subsection.
- (f) Harassing birds. It shall be unlawful for any person within the Town to at any time willfully frighten, shoot at, wound, kill, capture, ensnare, net, trap or in any other manner harass or injure any bird, fowl or water fowl or in any manner willfully molest or injure the nest, eggs or young of any such bird, fowl or water fowl.

(Ord. 706-20 , §1(Exh. A), 3-24-2020)